Supreme Court, U.S.
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No.

IN THE

Supreme Court of the United States

In re

ROBERT OLSON,

Petitioner,

vs

THE HONORABLE JUDGE
RONALD G. FRANKLIN,

Respondent.

Petition for Writ of Mandamus
Judicial Disqualification
From Oklahoma Supreme Court #101682

PETITION FOR AN EXTRAORDINARY WRIT OF MANDAMUS, JUDICIAL DISQUALIFICATION FOR FRAUD IN PROCEEDINGS

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(a) Questions:

1. Disqualification of Judge for Fraud in Proceedings.

   a. Intrinsic Fraud

   b. Extrinsic Fraud

2. Jurisdiction Lost Due to Fraud

3. Fiduciary Duty Among Parties, Fraud

4. Fundamental Error in Underlying Summary Judgment. Case CJ-2002-151, The word "probable".

5. The Search for Substantial Justice.

(b) ROBERT OLSON,

Plaintiff, Petitioner

vs.

JUDGE RONALD G. FRANKLIN,

District Judge of Blaine County,
Oklahoma,
Respondent.

Oklahoma Supreme Court Case #101682

ROBERT OLSON,

Plaintiff, Petitioner

vs.

CONTINENTAL RESOURCES, INC.,

an Oklahoma Corporation,

HAROLD HAMM,

an Individual and President
and Chief Executive Officer of
Continental Resources, Inc.,

TOM LUTTRELL,

an individual and Vice President of
Continental Resources, Inc.

AND

DAVIS OPERATING COMPANY,

an Oklahoma Corporation,

WILLIAM H. DAVIS,

an individual and President of
Davis Operating Company.

Base Case: Blaine County Oklahoma District Court
Case CJ-2004-121 , refile of CJ-2002-151

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The attorney for opposing counsel states:

a. "a notebook containing cases directly quoted in briefs filed in the Blaine County case, to assist the Court in deciding whether or not to grant Defendants' summsry judgment motion." ..... 165, pg 5, prgf 1

b. "Providing copies expedites the Court's consideration of a motion, because the Court does not have to spend the time looking up the cases for it's review." ..... 166, pg 5, prgf 2

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6.	Fellows, et al., v. Owens, 62 P.2d 1215	20tx,21tx,22tx
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APPEAL TEXT

(d)(1) List of dates and filings

From the Blaine County Oklahoma District Court File Docket. Case CJ-2004-121

10/14/04 Plaintiff verbally asked Judge Franklin to recuse. Judge Franklin declined

10/26/04 Plaintiff filed Motion for Judge Franklin to recuse.

11/09/04 Defendants' Response to Plaintiff's Motion for Judge Franklin to Recuse.

11/18/04 Plaintiff requests court to recuse, denied

11/18/04 Order filed, Judge Franklin declines to recuse. Appendix page 7.1 .

11/22/04 Plaintiff timely filed Request for a Rehearing on Plaintiff's Motion for Judge Franklin to Recuse.

12/16/04 Case CJ-2004-121 passed from the docket. To be reset at request of parties.

1/13/05 Hearing on Plaintiff's Motion for Judge Franklin to Recuse, CM entry as "Motion to Disqualify Judge Franklin". Transcript, Appendix Pages 8 to 53 .

1/25/05 Order denying Motion for Judge Franklin to Recuse. Appendix pages 5 to 7 .

Oklahoma Supreme Court # 101682

1/18/05 Petition for a Writ of Mandamus.

1/18/05 Notice of Original Jurisdiction, Supreme Court proceeding.

2/7/05 Petitioner's Reply to Respondents' Reply dated February 7, 2005.

2/16/05 Hearing before a Oklahoma Supreme Court Referee. No record was made. Plaintiff's oral argument was cut short. Access to the Report of the Oklahoma Supreme Court Referee was restricted to the Oklahoma Supreme Court.

2/28/05 Order of the Oklahoma Supreme Court denying Petitioner's petition for a writ of mandamus, citing Canon3(B)(6)(a) of the Code of Judicial Conduct. Appendix page 1. 7 Justices Concur, 2 Justices Dissent. All Justices denied sanctions against Plaintiff/Appellant. Applicable portions of the Code of Judicial Conduct are reproduced on Appendix pages 63 to 67.

3/15/05 Plaintiff/Appellant's Motion for Rehearing filed. Appendix pages 54 to 59.

3/23/05 Plaintiff/Appellant's Closing Argument filed. Appendix pages 60 to 61.

9/20/05 Oklahoma Supreme Court: Rehearing is denied. 7 Justices Concur, 2 Justices Dissent. Appendix page 3.

(e), (i) and (ii), Rule 14

Appendix page

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(For Disqualification), Filed Feb 28, 2005..... 1
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to Recuse, Filed Nov 18, 2004 ..... 7.1

(e) Basis for Jurisdiction: Rule 10

(a.) This action of the Oklahoma Supreme Court so far departed from the accepted and usual course of judicial proceedings as to call for an exercise of the United States Supreme Court's supervisory power. The Oklahoma Supreme Court has refused to disqualify an Oklahoma District Court Judge that has accepted and used substantive ex parte written communication and advice from opposing counsel in violation of the Oklahoma Code of Judicial Conduct. Then the Judge threw the written communication away in violation of the Oklahoma Criminal Statute

Title 21 § 461. Appendix pages 74

By this action, the District Court prevented the Plaintiff from fully and completely presenting his side of the case to the court and to the record. Plaintiff was not allowed to have any response to the clandestine substantive ex parte communication. See Appendix pages 34 to 36. The Oklahoma Supreme Court accepted this behavior and thus condones this kind of behavior.

(b.) The Oklahoma Supreme Court has decided the Oklahoma Supreme Court Appeal # 101,682 in a manner that conflicts with:

(1) United States Court of Appeals, Third Circuit, Johnson v. Carroll, 369 F.3d 253, in Delaware, ex parte communication.

(2) United States Court of Appeals, Tenth Circuit, United States v. Lang, 364 F.3d 1210, in Utah, Theft of Records.

(3) Supreme Court of Minnesota, Powell v. Anderson, 660 N.W. 2d 107, Attorney relationship with the judge.

(4) United States District Court, ND New York, Connor v. New York State Commission on Judicial Conduct, 260 F. Supp.2d 517, ex parte communication.

(c.) By the Oklahoma Supreme Court denying Petitioner's Petition for a Writ of Mandamus to disqualify Judge Franklin, the Oklahoma Supreme Court has denied Petitioner due process and has denied Petitioner access to a fair trial. That conflicts with the well-established principle that a party is constitutionally entitled to a trial before a disinterested and impartial judicial officer.

(e.)(iv) Statutory Provisions believed to Confer Jurisdiction on this Court

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

U.S.C.S. Const. Amend. 14, §§ 1 (2005)

Sec. 1. [citizens of the United States]

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life,liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

28 U.S.C.A. § 455 (a)

Any justice, judge, or magistrate judge of the United States shall disqualify himself in any proceeding in which his impartiality might reasonably be questioned.

(f) Constitutional provisions and Statutes involved

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O.S. Title 12 § 100 Limitation of New Action after Reversal or Failure otherwise than on Merits	74
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Aid to Court's Appellate Jurisdiction:

Fraud in judicial proceedings destroys the public's confidence in the integrity of the judiciary from bottom to top. Truth is consistent. Falsehood is inconsistent. Truth, honor, justice and integrity are concepts that are whole; they cannot be parsed. The only currency of respect from the general public that the Court has is its reputation for integrity. All elements of the judiciary must be held to the highest standards to uphold the integrity of the judicial process. The Social Contract of Public Service is the protection of the ordinary, individual citizen. This is most dramatically apparent in the police and fire departments. It is equally applicable to the judiciary; which is a branch of law enforcement. If the one ordinary citizen is not protected, the public will not have confidence that any citizen will be protected. Judic[illegible] conduct that violates the Code of Judicial Conduct must lead to judicial disqualification.

Exceptional Circumstances.

Plaintiff/Petitioner was shut out of a trial on the issues in the base case CJ-2002-151, in Blaine County, Oklahoma, District Court on summary judgment without oral argument and substantially without discovery. See Appendix pages 82 to 86. The case was appealed to the Oklahoma Supreme Court, # 99704. The Oklahoma Court of Civil Appeals affirmed the Trial Court's decision based on a perceived Oklahoma District Court Rule 13 violation that did not exist. Plaintiff/Petitioner did attach supporting evidentiary materials to his Response to Defendants' Motion for Summary Judgment. See Appendix pages 87 to 93. Such a blatant error made the Plaintiff believe the Oklahoma Court of Civil Appeals had been compromised. Certiorari was denied. None of this is on the merits.

When Defendants' attorneys applied for attorney fees, an entry, Appendix page 98, for 2.5 hours to prepare a notebook for the judge was listed, Appendix pages 94 to 104, along with several telephone conferences with the judge.

At a hearing on attorney fees, the Plaintiff asked the judge for a copy of that notebook. The judge said he no longer had the notebook. See transcript, Appendix page 110. It turns out that only one copy of the case notebook was made and it was hand delivered to the judge. See Affidavit, Appendix pages 111 to 113. And Judge Franklin threw it away. Appendix Page 110, Ln 17-19.

Throwing away the only copy of the substantive ex parte Case Notebook is a violation of Oklahoma Criminal Statutes Title 21 § 461.

The original summary judgment in Blaine County District Court Case CJ-2002-151 was not on the merits. A perceived Oklahoma District Court Rule 13 violation is not affirmation on the merits. Certiorari is not on the merits. So the Plaintiff re-filed the case as CJ-2004-121under Oklahoma Statutes Title 12 § 100 before the one-year statute of limitations for a re-file ran out.

Plaintiff then asked Judge Franklin to recuse. He declined.

All proper procedural steps were taken to persue judicial disqualification and a hearing was held on January 13, 2005. Transcript on Appendix pages 8 to 53. The presiding judge was Judge Ray Dean Linder, Regional District Judge. The trial court judge, Judge Ronald G. Franklin is an appointee of Judge Ray Dean Linder. See Transcript, Appendix page 27, Ln 6. Judge Linder denied Plaintiff's Motion for Judge Franklin to Recuse, Appendix pages 5 and 7. That decision was appealed to the Oklahoma Supreme Court, #101,682. There the decision was 7 against disqualification of Judge Franklin and 2 in favor of disqualification. Appendix pages 1 and 2.

Hence this appeal.

Adequate relief cannot be obtained in any other form or from any other court.

(g) Concise statement of the case

In the course of this series of legal activities, Petitioner found that illegal ex parte communication between opposing counsel and the judge had occurred just before the summary judgment was pronounced in Blaine County, Oklahoma, District Court Case CJ-2002-151. By recognizing the intrinsic fraud and now the extrinsic fraud involved in Case CJ-2002-151, and with the first summary judgment order being off point on the facts and in being conflict with established case law, Petitioner refiled the case as CJ-2004-121 and asked Judge Ronald G. Franklin to recuse. Judge Ronald G. Franklin declined to recuse. By following all specified applicable Rules of the District Courts, The Petitioner caused a hearing before the Regional District Judge, Judge Ray Dean Linder, who appointed Judge Franklin, which brought forth an affidavit from opposing counsel claiming to be a complete description of the ex parte communication; a Case Notebook that contained selected copies of case law, indexed and highlighted to the language in their briefs.

This hearing also brought forth testimony from the bench that this kind of ex parte communication is common and expected by judges. "It just makes it a little easier to collect your thoughts when you get ready to draft your order." Appendix page 36, Lns 16-18.

That makes the judicial expectation of the Case Notebook a de facto clandestine "rule" that is in serious conflict with the published rules of the statutory Code

of Judicial Conduct.

When a judge accepts such a case notebook, he receives a gift of the attorney's work product (no cost to judge, but biased) and a saving of his own time and effort. That is valuable consideration. This appreciated gift carries a return obligation. The providing attorneys expect reciprocity. (No? Then why do the work?)

(h) A direct and concise argument amplifying the reasons relied on for allowance of the writ.

1. Disqualification of Judge Franklin due to Fraud in judicial proceedings.

(a.) Intrinsic Fraud Blaine County Case CJ-2002-151

On June 28, 1984, Geologist Dr. Robert Olson was assigned a 1.5% override in the Matli Section 17, Township 16 North, Range 11 West, Blaine County, Oklahoma. This override assignment was from the base oil and gas leases. Petition CJ-2004-121, to Quiet Title and Tort Petition, Exhibit 5, Appendix pages 114 to 119. The well was drilled and subsequently completed as a producing gas well and thus satisfied the habendum clause in the oil and gas leases. Production was established. In September 1993, Continental Resources, Inc., acquired an undivided interest of approximately 52% in certain oil and gas leases covering Section 17-16N-11 W.I.M. and an approximate 52% undivided working interest in the Matli #1-17 well. Petition CJ-2004-121, Exhibit 8, Affidavit of Tom Luttrell.

The well was offline for slightly less than one year, Petition CJ-2004-121, Affidavit of Tom Luttrell; Exhibit 8 page 8, gas sales of 2538 MCF in September 1998, sold to Davis Operating on 5/1/99, Petition CJ-2004-121.

Davis Operating Company had made a deal to re-enter the well and moved onto the location with a rig to workover the well. Davis Operating Company brought the well back into commercial production. Petition CJ-2004-121, Exhibit 10, page 1, line 50, as well as the whole page. Davis

Operating Company tendered shut-in royalty payments to the mineral owners. July 25, 2000 letter from Ralph seals. Davis Operating Company also paid royalty payments to the mineral owners after production was re-established. Acceptance of the royalty payments by the mineral owners ratifies the original oil and gas leases. Davis provided the Plaintiff/Appellanta Division Order dated November 9, 1999, effective September 25, 1999. A second copy of this Division Order was provided to the Plaintiff/Appellant that was attested to on February 8, 2002. Petition, CJ-2004-121, Appendix pages 120 to 123

Continental Resources, Inc., bought new leases on the Matli Section 17 on September 3, 1999. Davis Operating Company moved a workover rig onto the Matli # 1-17 well on September 20, 1999. On October 26, 1999 Continental Resources, Inc., sued Davis Operating Company, CJ-99-123, claiming Davis Operating Company moved in too late, did not immediately re-establish commercial production, and that the new leases were the only valid oil and gas leases covering the Matli #1-17 Section.

Up to this time there has been no fraud.

However, in the settlement agreement, dated August 10, 2000, between Continental Resources, Inc., and Davis Operating, they decided to, and agreed to, release the Old Original Leases and operate under the New Leases thinking they would thereby eliminate Dr. Robert Olson's vested override. Appendix pages 129 to 134 , Pg 130, pgrfs 2, 3, 4.

Continental Resources, Inc. and Davis Operating Company acted in bad faith. Releasing an oil and gas lease

works fine before production is established. However, after production is established, the oil and gas leases become a vested estate. This vested estate now has value and its demise is governed by estate forfeiture statutes not lease expiration.. State of Oklahoma Commissioners of the Land Office v. Amoco Production Company, Okla. 645 P.2d 468. To effect a true release, the release must be accompanied by a vacation of the premises. J.W. Cain v. Neumann, 316 S.W.2d 915, Hudspeth v. Schmelzer, 77 P.2d 1123, Blackwell Oil & Gas v. Whited, 196 P. 688.

By purchasing New Leases while the Old Original oil and gas leases were still in effect shows Continental Resources had no intention of vacating the premises.

On May 24, 2000, Continental Resources, Inc. and Davis Operating Company had an increased well density hearing before the Oklahoma Corporation Commission. At that hearing, testimony was given that 11.9 BCF Gas remained under the Matli Section 17, Petition, CJ-2004-121, Exhibit 17. That testimony valued Dr. Olson's override at approximately $937,125.00. There are now four producing wells on the Matli Section 17.

On October 2, 2000, Continental Resources, Inc. filed a release of oil and gas leases reciting release of "all right, title, interest" in the Matli Section 17. Petition CJ-2004-121, Appendix pages 124 to 128.

Continental Resources, Inc. did not own "all right, title, interest" in the Matli Section 17. Dr. Robert Olson still owned his vested override. Thus Continental Resources, Inc., both uttered and filed a false document of title. Appendix pages 75 to 81 .This false document of title was then used as the excuse to discontinue override payments to Dr. Robert Olson.

Dr. Olson's override was paid from October 1999 (September 1999 production) through November 2000 and then paid from December 2000 through November 2001 "by mistake". See Petition CJ-2004-121, Exhibit 9, pg 1. Appendix pages 135 to 154.

Note: Dr. Olson was paid his override under the Old Leases from October 1999 (September 1999 production) through November 2000. Note: production was continuous from September 1999 through 2003 and beyond. Nothing changed on the leased premises except some pieces of paper were swapped. This is not effective in extinguishing Dr. Olson's override. J.W. Cain v. Neumann, 316 S.W.2d 915. Appendix pages 161-162.

Then in Defendants' Motion for Summary Judgment, filed June 2, 2003, in Blaine County District Court Case CJ-2002-151, page 2, the Defendants' attorney recited the Surrender Clause in the oil and gas leases as:

> "Lessee may at any time and from time to time surrender this lease as to any part or parts of the leased premises by delivering or mailing a release thereof to lessor, or by placing a release of record in the proper County."

However, this recital is a half truth. One lease has that wording. All but one of the other leases carries the wording:

> "Lessee may at any time and from time to time surrender this lease as to any part or parts of the leased premises by delivering or mailing a

release thereof to lessor, or by placing a release of record in the proper County. ***After a partial surrender, the rentals specified above shall be proportionately reduced on an acerage basis."***

The Surrender Clause is almost exclusively a primary term clause applied almost exclusively before production is established. Clearly, sentence 2 of the surrender clause above expects the lessee to vacate the surrendered acreage. For opposing counsel to present only sentence 1 to the court as "The" surrender provision is a misleading statement to the court. For the court to use this misleading statement as a basis for summary judgment makes the summary judgment fraudulent. See Judge Franklin's Summary Judgment Order, Appendix pages 155 to 160 .

For a surrender to actually occur, the surrenderer must actually vacate the premises. Rennie v. Red Star Oil Co. et al, # 9684, 78 Okla. 208, 1920 OK 202, 190 P. 391 (1920), Blackwell oil & Gas Co. et al v. Whited, # 9761, 81 Okla. 45, 1921 OK 8, 196 P. 688 (1921), Hudspeth et al. v. Schmelzer et al., # 27856, 182 Okla. 416, 1938 OK 161, 77 P.2d 1123 (1938), Cole v. Philadelphia Co., 345 Pa. 315 (1942), and Cain et al. v. Neumann et al. # 13325, 316 S.W. 2d 915 (Texas, 1958), Phillips Petroleum Co. v. Taylor, et al., 116 F.2d 994, 313 U.S. 565.

Defendants also claimed the timespan while the Matli # 1-17 well was off line caused the base leases to expire. However, :

> "Where oil and gas lease contains habendum clause providing that the lease is to remain in force after the primary term for as long thereafter as oil or gas is produced, under no circumstances will cessation of production in paying quantities ipso facto deprive the lessee of his extended term estate."

And.

> "Clause of oil and gas lease providing that the lease is to remain in force after the primary term for 'as long thereafter' as oil or gas is produced is to be regarded as fixing the life of a lease instead of providing a means to terminate the lease in advance of the time in which it would otherwise expire."

And.

> "Courts are statutorily mandated to avoid the effect of forfeiture by giving due consideration to compelling equitable circumstances. 23 O.S. 1971, § 2.

Stewart v. Amerada Hess Corporation, 1979 OK 145, 604 P.2d 854.

At this point we have a Summary Judgment Order in Blaine County District Court Case CJ-2002-151 whose findings of facts are based in fraud and forgery; whose conclusions of law apply to the oil and gas leases in their

primary term and are in conflict with significant case law concerning oil and gas leases after production has been established.

The intrinsic fraud is a very sophisticated fraud using the machinery of the law to perpetrate it.

This many flaws in the Summary Judgment is suspicious.

(b.) Extrinsic Fraud Blaine County Case CJ-2002-151

The Extrinsic Fraud in Blaine County District Court Case CJ-2002-151 is evidenced by the Affidavit of opposing counsel Julia Rieman describing the ex parte Case Notebook supplied to Judge Franklin 6 days before the summary judgment was pronounced. Appendix pages 98 and 104. Preparing only one copy of the Case Notebook and hand delivering that one copy (Appendix pages 111 to 113) to Judge Franklin was a violation of the Oklahoma Attorney's Rules of Professional Conduct, Rule 3.5(b) and Rule 3.5(b)(2). Appendix page 71.

When Judge Franklin accepted the one and only copy of the ex parte Case Notebook, he violated the Oklahoma Code of Judicial Conduct, Canon 3B(6) and Canon 3B(6)(a), Appendix page 65. By way of the ex parte Case Notebook, which, at a minimum, admittedly contained copies of selected case law, highlighted to opposing counsel's briefs, Judge Franklin obtained "expert" advice on the law from opposing counsel.

Opposing counsel cannot be considered a disinterested party as stipulated under Canon 3B(6)(b). Certainly Judge Franklin gave the Plaintiff, Dr. Robert Olson, no notice of receiving that legal advice nor the substance of that legal advice. Also no record of that legal advice was made and

Plaintiff did not have the opportunity to respond. Clearly a Judicial violation of Canon 3B(6)(b) of the Oklahoma Code of Judicial Conduct. Appendix page 66. And a clear violation of the Due Process of Law Provision of the Fourteenth Amendment of the United States Constitution.

Judge Franklin used the ex parte Case Notebook to pronounce the summary judgment and to write the Summary Judgment Order of August 11, 2003, in Blaine County, Oklahoma, District Court Case CJ-2002-151. Then Judge Franklin threw the ex parte Case Notebook away. Appendix page 110, Ln 17-19.

When Judge Franklin accepted the ex parte Case Notebook, that ex parte Case Notebook became an official document in the case. Oklahoma Statutes, Title 21 § 461. When Judge Franklin threw that Case Notebook away, he violated Oklahoma Statutes, Title 21 §461.

In the Tulsa County, Oklahoma, Case styled Dr. Robert Olson v. Glenn A. Devoll, Julia C. Rieman, The Law Firm: Gungoll, Jackson,Collins, Box & Devoll, P.C., and Judge Ronald G. Franklin, # CJ-2005-04925, the attorney for opposing counsel Glenn A. Devoll and Julia C. Rieman wrote that the ex parte Case Notebook was prepared "to assist the court in deciding whether or not to grant Defendants' summary judgment motion." Appendix pages 165 to 167. Also please see Fellows et al., v. Owens, 178 Okla. 224, 62 P.2d 1215, 1218, 1936 OK 722.

The clandestine delivery to Judge Franklin of the one and only copy of the ex parte Case Notebook by opposing counsel and the use of that ex parte Case Notebook to pronounce and write the Summary Judgment Order of August 11, 2003 in Blaine County, Oklahoma, District Court Case CJ-2002-151 without Plaintiff, Robert

Olson, having the opportunity to respond to the ex parte Case Notebook, constitutes extrinsic fraud practiced against the Plaintiff, Robert Olson.

Due to the above described fraud and not being allowed oral argument and judicially restricted discovery, the Plaintiff, Robert Olson, did not have the opportunity to fully and completely present his side of the case to the trial court and to the record. All of this constitutes enough fraud to disqualify Judge Franklin. Please see Fellows et al., v. Owens, 178 Okla. 224, 62 P.2d 1215, 1217, 1936 OK 722.

When a judge accepts substantive ex parte communication such as the above described Case Notebook, he receives a gift of the attorney's time (biased work product) and a saving of his own time and effort. That is valuable consideration. Please see Appendix page 166 , page 5, paragraph 2.

An appreciated gift, Appendix page 36 , Ln 11, as described above, carries a return obligation. The providing attorneys expect reciprocity. (No? Then why do the work?)

Fraud perpetrated by means of a judgment is entitled to no more immunity than a fraud perpetrated by any other means. Fraud destroys whatever it taints, whether it be perpetrated through the machinery of the law or by other means. Please see The Mechanics National Bank at Newark v. The H.C. Burnett Manufacturing Company and William S. Squier, 33 N.J. Eq. 486, 6 Stewart 486, 1881 WL 8376 (N.J.Ch.).

Opposing counsel, Ms. Julia C. Rieman, admitted in her Affidavit of January 5, 2005, Appendix pages 111 to 113 , that she copied selected case law and in paragraph 4 says:

> "I highlighted the language in the cases that had been directly quoted in the briefs and I highlighted the language in the cases that was used by me to support the legal argument made in the briefs, even though not directly quoted."

Highlighting specific language in copies of selected case law constitutes legal advice to the court by opposing counsel. This was unknown to the Plaintiff. Plaintiff had no opportunity to respond.

When Judge Franklin accepted the ex parte Case Notebook, he accepted legal advice from opposing counsel. This was unknown to the Plaintiff. Plaintiff had no opportunity to respond. That constitutes sufficient fraud practiced on the Plaintiff to disqualify Judge Franklin. Fellows et al., v. Owens, # 24325, 178 Okla. 224, 62 P.2d 1215, 1936 OK 722.

2. Jurisdiction Lost Due to Fraud

The above described action by Judge Franklin makes him a member of the Defense Team, not an impartial judge. This fraud, be it actual or constructive, which was practiced against the Plaintiff, Robert Olson, and by which the actions of the judge and opposing counsel prevented Plaintiff from being able to make a fair presentation of his case to the trial court and to the record, will cause the court to lose jurisdiction. Nardi v. Poinsatte, 46 F.2d 347 and Petition of Dare, Okla. Crim. App., 370 P.2d 846 (1962).

When the above described fraud causes the trial court to lose jurisdiction, it should be an automatic disqualification of the judge.

3. Fiduciary Duty Among Parties, Fraud

The existence of a fiduciary duty relationship between the Plaintiff and the Defendants obliterates the distinction between extrinsic fraud and intrinsic fraud in determining whether to permit attack on final judgment. Bierne v. Barone et al., 529 A.2d 154 (1987).

Plaintiff/Petitioner, Robert Olson contends the Defendants owe the Plaintiff/Petitioner fiduciary duty through Defendants' control of operations and control of the distribution of the revenue. Defendants also owe the Plaintiff/Petitioner fiduciary duty through contract because Defendants knowingly acquired their interest subject to Plaintiff/Petitioner's override. Thus Plaintiff/Petitioner is a third party creditor beneficiary of Defendants' acquisition contracts. Dr. Olson's override was assigned from the base oil and gas leases. Defendants' acquired interests did not represent 100% of ownership interest so their interests are subleases, and titularly inferior to Dr. Olson's assigned, vested override from the base oil and gas leases, after production had been established.

Judge Franklin accepted the objected-to intrinsic fraud through the mechanism of the extrinsic ex parte Case Notebook fraud. All the frauds should be cumulative in disqualifying Judge Franklin.

4. Fundamental Error in the Underlying Summary Judgment in Blaine County Case CJ-2002-151. THE USE OF THE WORD "PROBABLE" IN THE FINDING OF FACTS AND CONCLUSIONS OF LAW !

1. The use of the word "probable" in the finding of facts and conclusions of law in a Summary Judgment Order is contrary to summary judgment case law, which requires no ambiguity.

2. Falsely applying the surrender clause in the oil and gas leases to an established production vested estate situation. New leases bought while original leases still in force. Surrender was a paper swap while production was continuous. Premises never vacated.

3. Judge would not recognize fiduciary duty owed.

4. Judge would not recognize titular superiority of override assignment from base oil and gas leases over sublease assignments.

5. Judge would not recognize the vested estate after production is established.

6. Judge would not recognize "Courts are statutorily mandated to avoid the effect of forfeiture by giving due consideration to compelling equitable circumstances. Title 23 Oklahoma Statutes 1971, § 2." Stewart v. Amerada Hess Corporation, 1979 OK 145, 604 P.2d 854.

7. Judge would not recognize:

> "Habendum clause of oil and gas lease providing that the lease is to remain in

> force after the primary term for 'as long thereafter' as oil and gas is produced is not ever to be regarded as akin in effect to the common-law conditional limitation or determinable fee estate."

Stewart v. Amerada Hess Corporation, 1979 OK 145, 604 P.2d 854.

There is something wrong when a judge will not recognize this many points of law that seriously conflict with a Summary Judgment Order he has written. An indication of this may be the close working relationship between the opposing counsel and the judge as evidenced by the fact that opposing counsel can hand deliver significant documents directly to the judge, have those documents be considered and not feel the documents need to be filed in the County District Court. Affidavit of Julia C. Rieman, Appendix pages 111 to 113 .

For this many fundamental errors and the extrinsic fraud relationship (The Case Notebook) Judge Franklin should be disqualified. With this many questions concerning his actions, Judge Franklin should have disqualified himself under Canon 3D(1). Appendix page 66 .

5. The Search for Substantial Justice

Throughout this entire series of legal cases, the Plaintiff/ Petitioner has never had the opportunity for a fair and impartial trial on his complaints. The opposing counsel have been very effective in using procedure to avoid facing the issues at trial.

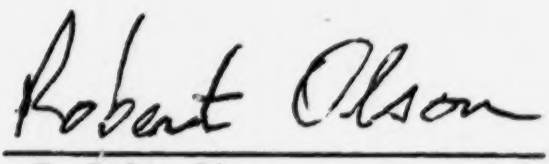
1. Intrinsic and extrinsic fraud before summary judgment
2. Summary judgment before substantial discovery and without oral argument at hearing; not on the merits.
3. Discovery by Plaintiff/ Petitioner that opposing counsel had provided ex parte legal advice to the judge; the Case Notebook; no record; no opportunity of response from Plaintiff/Petitioner.
4. Appeal affirmed as to Defendants on erroneously perceived District Court Rule 13 violation. There was no Rule 13 violation. Plaintiff/Appellant did attach evidentiary materials to his response against summary judgment. Not on the merits.
5. Plaintiff/Petitioner refiled the case as CJ-2004-121 in Blaine County District Court.
6. Plaintiff/Petitioner requested District Court Judge Ronald G. Franklin to recuse because Plaintiff felt that after he discovered the extrinsic fraud in Blaine County District Court Case CJ-2002-151, he could not receive a fair trial with Judge Franklin.

7. Judge Franklin declined to recuse
8. Regional District Judge Ray Dean Linder would not disqualify Judge Franklin. Judge Franklin is an appointee of Judge Linder.
9. The Oklahoma voted 7 against disqualification and 2 for disqualification.
10. Hence this appeal.

There has been an injustice in the course of this series of legal actions. My vested personal property (the 1.5% override in the Matli Section 17) was fraudulently taken away from me and given to the Defendants. It was done through the machinery of the law.

The Petitioner prays the U.S. Supreme Court will approach this appeal with a search for justice. Gondeck v. Pan American World Airways, Inc., 382 U.S. 25, 86 S.Ct. 153, 15 L.Ed.2d 21.

Respectfully submitted,



Dr. Robert Olson
9022 E 60th St
Tulsa, Oklahoma 74145
918-252-1987

27tx

APPENDIX

ORDER 1, DENIAL

ORIGINAL

IN THE SUPREME COURT OF THE STATE OF OKLAHOMA

FILED
SUPREME COURT
STATE OF OKLAHOMA
FEB 28 2005
MICHAEL S. RICHIE
CLERK

ROBERT OLSON	)	
	)	
Petitioner,	)	
	)	
v.	)	No. 101,682
	)	
THE HONORABLE RONALD G. FRANKLIN, District Judge, of Blaine County,	)	
	)	
Respondent	)	

ORDER

Original jurisdiction is assumed. Petitioner's petition for a writ of mandamus is denied. Canon 3(B)(6a) of The Code of Judicial Conduct.

The request of the real parties in interest for sanctions pursuant to Rule 1.91(j) of the Oklahoma Supreme Court Rules is denied.

DONE BY THE ORDER OF THE SUPREME COURT IN CONFERENCE THIS 28TH DAY OF FEBRUARY 2005.

s\ Joseph M. Watt
CHIEF JUSTICE

WATT, C.J., WINCHESTER, V.C.J., LAVENDER, HARGRAVE, EDMONDSON, TAYLOR, COLBERT, JJ. - Concur

OPALA, J., with whom KAUGER,J, joins, dissenting in part.

I concur in denial of sanctions and dissent from the court's denial of mandamus.

SUPREME COURT
STATE OF OKLAHOMA
SEP 20 2005
MICHAEL S. RICHIE
CLERK

REHEARING DENIED

IN THE SUPREME COURT OF THE STATE OF OKLAHOMA

Tuesday, September 20, 2005

THE CLERK IS DIRECTED TO ENTER THE FOLLOWING ORDERS OF THE COURT;

101,313 Dollar General Corporation v. Anita Streich, et.al
Petition for certiorari is denied
ALL JUSTICES CONCUR.

101,651 Lindsey R. Smith v State of Oklahoma ex rel., Department of Pubic Safety
Petition for certiorari is denied.
ALL JUSTICES CONCUR

101,682 Robert Olsen v. Honorable Ronald G. Franklin, Blain County
Rehearing is denied.
CONCUR: Watt, C. J., Winchester, VCJ., Lavender, Hargrave, Edmondson, Taylor, Colbert, JJ.
DISSENT: Opala, Kauger, JJ.

101,736 Swift Transportation Co., Inc., et.al. v. Clifford Wayne Stapp, et.al.
Petition for certiorari is denied.
ALL JUSTICES CONCUR

101,804 Sundance Aviation, Inc., v. Oklahoma Executive Jet Charter, Inc.
Petition for certiorari is denied.
ALL JUSTICES CONCUR

101,902 Ryan Christopher Proctor v. State of Oklahoma, Ex rel., Department of Public Safety
Petition for certiorari is denied.
ALL JUSTICES CONCUR

101,912 Walter Blaine McCown v. Century Corporation Management Co., d/b/a Century Group Management , et. al.
Petition for certiorari is denied.
ALL JUSTICES CONCUR

102,247 Questar Exploration & Production Company, et.al. v. Horizon Natural Resources, Inc.
Petition for certiorari to review certified Interlocutory order is denied.
ALL JUSTICES CONCUR

102,254 Questar Exploration & Production company, et.al. v. Horizon Natural Rerources, Inc.
Petition for certiorari to review certified Interlocutory order is denied.
ALL JUSTICES CONCUR

S/ Joseph M. Watt
CHIEF JUSTICE

IN THE DISTRICT COURT OF BLAINE COUNTY
STATE OF OKLAHOMA

ROBERT OLSON, Plaintiff, vs CONTINENTAL RESOURCES, INC., an Oklahoma corporation, HAROLD HAMM, an individual and President and Chief Executive Officer of Continental Resources, Inc., TOM LUTTRELL, an individual and Vice-President of Continental Resources, Inc., And DAVIS OPERATING COMPANY, an Oklahoma Corporation, WILLIAM H. DAVIS, an individual and President of Davis Operating Company, Defendants	)	Case no. CJ-2004-121 Case No. CJ-2002-151

Filed :
BLAINE COUNTY OKLAHOMA
F I L E D
JAN 25 2005
Rebekah Martin, Ct Clerk
by\ Sara Meger [?]
Deputy cgd

ORDER DENYING MOTION FOR JUDGE FRANKLIN TO RECUSE

NOW on this 13th day of January, 2005, there comes on for consideration in both referenced cases, the Plaintiff's Motion for Judge Franklin to Recuse on both cases. Plaintiff, Robert Olson, appears pro se and Defendants, Continental Resources, Inc., Harold Hamm and Tom Luttrell appear by and through their counsel of record, Glenn A. Devoll and Julia C. Rieman of the Gungoll, Jackson, Collins, Box & Devoll, P.C. The Court entertained argument from Plaintiff and counsel for the Defendants and reviewed the Affidavit of Julia C. Rieman on file herein and considered the statement in open court of Glenn A. Devoll as an officer of the court concerning the allegations relating to said counsel's contact with Judge Franklin.

The Court Finds as Follows :

1. That there was no improper contact between Judge Franklin and Glenn A. Devoll, all of such contact having been by phone and related to scheduling of motions and hearings in this cause. Plaintiff has presented no evidence that any contact between counsel and Judge Franklin related to any issue that would have been improper and outside the scope of setting hearings.

2. The notebook presented to Judge Franklin

about which Plaintiff has complained was simply a notebook containing copies of cases cited in both Plaintiff and Defendants' Briefs. It is common practice for counsel to present such notebooks to the Court as an aid to the Court and the presentation of the notebook to the Court was not an improper ex parte contact.

3. (There is no 3.)

4. There is no basis, either in fact or in law, based upon Plaintiff's motion and allegation to require Judge Franklin to recuse from either of the referenced cases.

IT IS THEREFORE ORDERED, ADJUDICATED AND DECREED that Judge Ronald Franklin shall remain the judge in both of the above referenced cases.

s\ Ray Dean Linder
The Honorable Ray Dean Linder
Judge of the District Court

mitchie/gad/continental/olson/order

State of Oklahoma
Blaine County _____ ss _____ In the District Court
I, Rebekah Martin, Dist. Court Clerk of Blaine County, Okla., hereby certify that the foregoing is a true, correct and complete copy of the instrument herein set out as appears of record in the above namedCourt of the Court Clerk's Office at Blaine County, Okla. this 6 day of *December* 20 *05*.
(seal)

Rebekah Martin, Court Clerk
by\ Barbara A. Underwood
Deputy Court Clerk

IN THE DISTRICT COURT OF BLAINE COUNTY
STATE OF OKLAHOMA

ROBERT OLSON, Plaintiff, vs CONTINENTAL RESOURCES, INC., an Oklahoma corporation, HAROLD HAMM, an individual and President and Chief Executive Officer of Continental Resources, Inc., TOM LUTTRELL, an individual and Vice-President of Continental Resources, Inc., And DAVIS OPERATING COMPANY, an Oklahoma Corporation, WILLIAM H. DAVIS, an individual and President of Davis Operating Company, Defendants	)	BLAINE COUNTY, OKLAHOMA FILED NOV 18 2004 BY REBEKAH MARTIN DEPUTY Case No. CJ-2004-121

ORDER

I, Judge Ronald G. Franklin decline to recuse myself from Case CJ-2004-121.

s\ R
RONALD G. FRANKLIN
DISTRICT JUDGE

IN THE DISTRICT COURT OF BLAINE COUNTY
STATE OF OKLAHOMA

ROBERT OLSON, Plaintiff, vs CONTINENTAL RESOURCES, INC., an Oklahoma corproation, HAROLD HAMM, an individual and President and Chief Executive Officer of Continental Resources, Inc., TOM LUTTRELL, an individual and Vice President of Continental Resources, Inc., And DAVIS OPERATING COMPANY, an Oklahoma Corporation, WILLIAM H. DAVIS, an individual and President of Davis Operating Company, Defendants	)	Case No. CJ-2002-151

* * * *

TRANSCRIPT OF HEARING ON PLAINTIFF'S MOTION FOR RECUSAL OF JUDGE RONALD G. FRANKLIN

HELD ON JANUARY 13TH, 2005
BEFORE THE HONORABLE RAY DEAN LINDER, PRESIDING JUDGE OF THE FOURTH JUDICIAL DISTRICT

REPORTED BY: (2)

Mark W. Fike, C.S.R.
Official Court Reporter
1600 Main Street, Suite 7
Woodward, Oklahoma 73801
(580) 256 - 3405

APPEARANCES

Mr. Robert Olson
9022 E 60th Street
Tulsa, Oklahoma 74145
(918) 252 1987
Appearing Pro Se

* * * *

Mr. Glenn A. Devoll
Ms. Julia C. Rieman
- Of the Firm -
Gungoll, Jackson, Collins, Box & Devoll, P.C.
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P.O. Box 1549
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(580) 234 0436
Attorneys for Defendant Continental Resources

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* * * *

PROCEEDINGS

* * * *

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[4] THE COURT: There are two matters that I think [5] will come on for consideration today : CJ-2002-151 and [6] CJ-2004-121. These are inter-related matters, it appears to [7] me. And there is for consideration at this time the motion [8] to disqualify the prevoiusly assigned and presiding judge in [9] this matter, to wit : Judge Franklin. That's the issue with [10] which we'regoing to deal. [11] The plaintiff present and ready to proceed on that [12] basis.

[13] MR. OLSON: Yes, sir.

[14] THE COURT: Defendants present by counsel and [15] ready as well ?

[16] MR. DEVOLL: Yes, sir.

[17] THE COURT: Mr. Olson, we've not met. It's my [18] understanding that you are Robert Olson. You are not an [19] attorney at law. You have chosen in the past, and choose [20] again today, to proceed pro se; is that correct ?

[21] MR. OLSON: That is correct, sir.

[22] THE COURT: You understand that this is a serious [23] matter. We're in the district court. we are making a formal [24] record. We're going to deal with not only district court [25] matters, we're going to deal with matters from the Court of

(4)

[1] Civil Appeals, we're going to deal with matters from the [2] Supreme Court of the State of Oklahoma. Is that correct ?

[3] MR. OLSON: Yes, sir.

[4] THE COURT: I see as well by some of your filings [5] that you have indicated you may seek relief in the Supreme [6] Court of the United States. You need to be aware of the fact [7] this is a court of law. The court expects everyone who [8] appears here to know the rules, to abide by the rules and to [9] proceed professionally. Understood ?

[10] MR. OLSON: Yes, sir.

[11] THE COURT: All right, sir. Do you want to be heard [12] in support of your motion to recuse Judge Franklin ?

[13] MR. OLSON: Yes, sir.

[14] THE COURT: I'm ready to hear you.

[15] MR. OLSON: Okay. To start out, I would like to [16] present a summary of the case.

[17] THE COURT: Now is this the same case that was [18] tried on it's merits on a motion for summary judgment that [19] summary judgment was granted against you and in behalf of or [20]on behalf of the other parties to the lawsuit, and that that [21] was appealed to the Court of Civil Appeals of the State of [22] Oklahoma ?

[23] MR. OLSON: Yes, sir.

[24] THE COURT: And it was affirmed by that court by [25] a three-to-nothing decision, I believe, written by Judge

(5)

[1] Hansen.
[2] MR. OLSON: On plain --
[3] THE COURT: Is that correct ?
[4] MR. OLSON: Plain judicial error
[5] THE COURT: that --
[6] MR. OLSON: Yes, sir.
[7] THE COURT: That is correct ? It was affirmed ?
[8] MR. OLSON: It was affirmed.
[9] THE COURT: And that opinion was, in fact, [10] rendered and made a part of the case file; is that correct ?
[11] MR. OLSON: Yes, sir.
[12] THE COURT: After that time, you sought certiorari to the --
[14] MR. OLSON: Yes.
[15] THE COURT: -- Supreme Court of the State of [16] Oklahoma.
[17] MR. OLSON: Yes, sir.
[18] THE COURT: And it was considered by that court; [19] is that correct ?
[20] MR. OLSON: I turned in an eleven-page deal. So [21] it was not on the merits; it was on procedure.
[22] THE COURT: Wasn't -- did you, in fact, seek [23] certiorari from the Supreme Court of the State of Oklahoma ?
[24] MR. OLSON: Yes, I did.
[25] THE COURT: You did so, again, pro se; is that

(6)

[1] correct ?

[2] MR. OLSON: That's correct, sir.
[3] THE COURT: And what was the result of that [4] application for certiorari ?
[5] MR. OLSON: That result has not come down yet.
[6] THE COURT: Then if this file has an order signed [7] by the chief justice of the Supreme Court of the State of [8] Oklahoma saying that certiorari is denied --
[9] MR. OLSON: Well, certi --
[10] THE COURT: -- that would be -- that would not be [11] correct ?
[12] MR. OLSON: Well, certiorari was denied, but the [13] mandate has not come down.
[14] THE COURT: Did I ask anything about a [15] mandate ?
[16] MR. OLSON: No, sir.
[17] THE COURT: I asked you whether or not you sought [18] certiorari.
[19] MR. OLSON: Yes, sir.
[20] THE COURT: Did you seek certiorari ?
[21] MR. OLSON: Yes, sir.
[22] THE COURT: Was it granted ?
[23] MR. OLSON: No, sir.
[24] THE COURT: Was that a nine-to-nothing decision [25] with justice Opala dissenting only as to appellate attorney's

(7)

[1] fees ? Do you recall that ?
[2] MR. OLSON: Uh --
[3] THE COURT: If the file shows that that's what [4] the order says, it would be correct, would it not ?
[5] MR OLSON: Yes.
[6] THE COURT: Have you looked at the file ?
[7] MR. OLSON: Uh --

[8] THE COURT: The court file contained here in the [9] Blaine County courthouse.
[10] MR. OLSON: No, sir.
[11] THE COURT: You've had access to it if you wanted [12] it, have you not, or have you --
[13] MR. OLSON: Yes.
[14] THE COURT: -- been denied access to it ?
[15] MR. OLSON: I haven't been denied access to it.
[16] THE COURT: All right, sir. It's available to [17] you at any time ?
[18] MR. OLSON: Yes.
[19] THE COURT: And if that file contains that order [20] signed by the chief justice, Justice Watt, that certiorari [21] was denied, that, too, would be correct, right ?
[22] MR. OLSON: Yes, sir.
[23] THE COURT: All right, sir. I don't need any [24] real background on the facts of the case. I need for you to [25] explain to me why Judge Franklin should be recused when the

(8)

[1] Oklahoma Court Rules and Procedures say that you seek recusal [2] of a judge at least 10 days before trial. [3] It's my understanding the trial in the matter took [4] place in, what, 2002 or 2003 ? So we/re long past the trial [5] stage, aren't we ?
[6] MR. OLSON: Not on the motion for a new trial in [7] case 151.
[8] THE COURT: All right, sir. I'm going to let you [9] make whatever record you want to. But, again, I caution you, [10] you're in a courtroom, you are opposed by two attorneys who [11] have long-standing practice in the state of Oklahoma --

[12] MR. OLSON: Yes, sir.
[13] THE COURT: -- and you'll being expected to abide
[14] by the rules of proper trial procedure. Understood ?
[15] MR. OLSON: Yes, sir.
[16] THE COURT: I'm ready to hear you. You need to
[17] be aware of the fact that anything you say is going to
be [18] taken by the court reporter; can and will be available
for [19] whatever use needs to be made of it in the future.
[20] Understood ?
[21] MR. OLSON: Yes, sir.
[22] THE COURT: All right, sir.
[23] MR. OLSON: Then you said that I can make [24]
whatever record I wish to make ?
[25] THE COURT: I'm going to allow that.
And if I

(9)

[1] think that it strays so far from the norm or so far from
the [2] accepted practice, there may or may not be an
objection, or I [3] may sua sponte say, That's it. But yes,
sir, I'm going to [4] give you as much rein as you think you
need reasonably to [5] proceed here today. All right, sir ?
[6] MR. OLSON: Okay, sir. Then I would like to [7]
present a summary of the case.
[8] THE COURT: Have you not done that in one of
[9] these filings I've just been reading for the last hour or so ?
[10] And also previously you had submitted to me by mail
at least [11] three or four hundred pages of information. So
I've read [12] what you've done in the past. Is this a new
production by [13] you ?
[14] MR. OLSON: No, sir. It's one that's been
[15] included.
[16] THE COURT: All right, sir. I'm going to tell

[17] you that I'm cognizant of everything that's in this file.
[18] MR. OLSON: Okay. Then you are cognizant of the [19] case law history of --
[20] THE COURT: I think I have been for some 45 [21] years, Mr. Olson.
[22] MR. OLSON: All right, sir. And the Matli [23] production spreadsheets ?
[24] THE COURT: I've seen them.
[25] MR. OLSON: You've seen them.

(10)

[1] THE COURT: But what does that have to do with [2] the disqualification of Judge Franklin ?
[3] MR. OLSON: The decision he made in this case was [4] against discovery, it was against the dispute in whether the [5] old leases or the new leases were good, it was against case [6] law history by affirming the old leases were expired, and I [7] want to get all of that on the record.
[8] THE COURT: What you really want is a new [9] decision in the case. You don't want a new judge. You want [10] somebody to say you were right, that you are right and [11] that you should prevail, in spite of the fact that a trial [12] judge ruled on it, in spite of the fact that two appellate [13] courts in the state of Oklahoma -- at least one has said [14] directly that you're not entitled to recovery, and the [15] second, the Supreme Court, has said you're not entitled to [16] certiorari. So, do you really want a new judge, or do you [17] want a new result ?
[18] MR. OLSON: I want a new judge, your honor. I [19] want -- I want it to be heard on the merits. This case has [20] not been heard on the merits.
[21] THE COURT: Go ahead and make whatever record you [22] think you can to support that allegation.

[23] MR. OLSON: Okay. Then we'll start from the top [24] with a summary of the case and build the record, your Honor.

(11)

[1] THE COURT: If it's in writing, it's in the [2] record. But if you want -- if you want to read it word for [3] word, I'll indulge you for a time.

[4] MR. OLSON: Okay. On June 28th, 1984, I, Robert [5] Olson, was assigned a one-and-a-half-percent override in [6] Section 17, Township 16 North, Range 11 West, Blaine County, [7] Oklahoma, by the original operator, Vulcan Energy [8] Corporation, from its 100-percent leasehold interest at that [9] time.

[10] THE COURT: And that's been previously filed in [11] one or both of these cases; is that correct ?

[12] MR. OLSON: Yes, sir.

[13] THE COURT: All right, sir.

[14] MR. OLSON: The well was timely drilled and [15] completed as the Matli 1-17 well capable of producing oil and [16] gas in commercial quantities in July 1984. The habendum [17] clause was satisfied and extended the leases into their [18] extended terms. In September 1993, Continental Resources [19] acquired approximately 52 percent or had approximately 52 [20] percent, of the working interest in the leases and became [21] operator.

[22] In 1998, the Matli 1-17 well temporarily ceased [23] production. Plugging letters were sent out and one interest [24] owner did not consent -- Puff. Puff bought approximately 42 [25] percent of the leasehold interest and 40 percent -- 46

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[1] percent of the Matli 1-17 wellbore interest. Puff

farmed in [2] the 52-percent Continental Resources interest in the wellbore [3] and sold the package to Davis Operating Company -- Davis. [4] In September 1999, CRI bought new leases and Davis [5] re-entered the Matli # 1-17 well and re-established production [6] -- re-established commercial production. The royalty owners [7] accepted shut-in royalty payments and production proceeds [8] from Davis.

[9] In October 1999, Continental Resources filed suit -- [10] CJ-99-123 -- in Blaine County to get the [11] new leases declared the only valid leases. Robert Olson was [12] included as a defendant in that suit. In July 2000, all [13] parties settled except Mr. Olson. He would not deal down his [14] override, so he was dismissed. In the settlement agreement, [15] Continental Resources and Davis agreed to release the old [16] leases and operate under the new leases. Under the new [17] leases, Continental Resources and Davis have refused to pay [18] Mr. Olson's override.

[19] THE COURT: All right, sir. And that's [20] information that you have drafted and that's in your language [21] that's contained therein; is that correct ?

[22] MR. OLSON: Yes.

[23] THE COURT: And also, that's already in the file [24] and has been referred to in the past in your presentation to [25] the trial court, your presentation to the Court of Civil

(13)

[1] Appeals, and then later to the Supreme Court of the State of [2] Oklahoma, right ?

[3] MR OLSON: Yes, sir.

[4] THE COURT: All right, sir. Are there any new [5] matters that you want the Court to consider ?

[6] MR. OLSON: This is an approximate assignment flow chart for the Matli 1-17.
[8] THE COURT: And who is the author of that ?
[9] MR. OLSON: I am the author of that.
[10] THE COURT: All right, sir. And has opposing [11] counsel ever seen that before ?
[12] MR. OLSON: Yes, sir.
[13] THE COURT: All right, sir. Is it a part of the [14] record ? I don't remember seeing that instrument herein.
[15] MR. OLSON: You should have. If you had read all [16] of the things that I sent you, you should have seen it. If [17] you have not, let me present you with a copy of it.
[18] THE COURT Yes, sir, I have, in fact, seen it [19] now that you hand it to me and I'm able to look at it [20] head-on. I have seen that instrument before.
[21] MR. OLSON: Okay, sir.
[22] THE COURT: Have opposing counsel seen it, Mr. [23] Devoll and Ms. Rieman ?
[24] MR. DEVOLL: Yes, sir.
[25] THE COURT: All right.

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[1] MR. OLSON: Okay. Your Honor, my override was [2] derived from Vulcan's hundred-percent interest in the base [3] leases, then other assignmemts were made to other working [4] interest owners, and then eventually ended up with [5] Continental Resources and Davis Operating Company. My [6] override came out of the base lease. Continental Resources [7] and Davis Operating have subleases. They cannot release the [8] subleases.
[9] THE COURT: All right. And that's your opinion, [10] correct ?
[11] MR. OLSON: Yes.

[12] THE COURT: All right, sir. And how does that [13] go, again, to the qualification of Judge Franklin ? [14] MR. OLSON: Will the Court let me get to that, [15] please, sir ? [16] THE COURT: I hope that you can get there, yes, [17] sir. [18] MR. OLSON: Okay, sir. [19] In Caudle versus Brannon, 176 Oklahoma 394, and 56 [20] P.2d 131, 1936: Lessee-sublessor entitled to recover [21] overriding royalty on production despite attempted release of [22] lease by sublessee to lessor. That has to do with coal [23] overrides. So, Judge Franklin made a legal mistake. [24] THE COURT: And was that brought to the attention [25] of the Court of Civil Appeals by you?

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[1] MR. OLSON: Yes, sir. [2] THE COURT: All right, sir. And they affirmed [3] Judge Franklin's ruling; is that correct ? [4] MR. OLSON: They affirmed because they -- [5] THE COURT: Do you know why they affirmed ? [6] MR. OLSON: Yes, sir. [7] THE COURT: And how do you know that ? [8] MR. OLSON: Because they said they affirmed [9] because -- in their opinion, they said they affirmed because [10] I had attached no -- [11] THE COURT: Because he misread Caudle? [12] MR. OLSON: No.No, your Honor. [13] THE COURT: Oh, okay. That's the point I thought [14] you were trying to make. [15] MR. OLSON: They affirmed because they said I had [16] attached no evidentiary materials to my response

to their [17] motion for summary judgment whatsoever.
[18] THE COURT: Is that what their opinion said ?
[19] MR. OLSON: Yes, sir.
[20] THE COURT: And you've read it very carefully ?
[21] MR. OLSON: Yes, sir.
[22] THE COURT: You didn't read it to say that you
23] didn't provide any information that supported your arguments ?
[24] MR. OLSON: No, sir.
[25] THE COURT You don't think that's implicit with

[1] what they wrote ?
[2] MR. OLSON: No, sir.
[3] THE COURT: All right. But, again, that's your
[4] interpretation, correct ?
[5] MR. OLSON: "...but submitted no evidentiary [6] materials whatsoever."
[7] "We affirm because Olson submitted no evidentiary
[8] materials establishing a material issue of fact."
[9] THE COURT: Okay.
[10] MR. OLSON: "...no evidentiary materials
[11] whatsoever."
[12] THE COURT: All right. You have to join those
[13] two sentences on two different places. And you raised that [14] with the court. You objected to their opinion, is that [15] correct, and sought certiorari to the Supreme Court ?
[16] MR. OLSON: Yes, sir. And I --
[17] THE COURT: And did you point out to the Supreme [18] Court this same language ?
[19] MR. OLSON: Yes, sir.
[20] THE COURT: And yet they denied you certiorari ?

[21] MR. OLSON: They denied me because my -- my [22] application was eleven pages long. It didn't match rule 178 [23] and 179.

[24] THE COURT: Do you not think that rules apply to [25] you the same as they do practicing attorneys ?

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[1] MR. OLSON: Yes, sir. But they have discretion, [2] and they didn't use it.

[3] THE COURT: Well, what relief is available to you [4] in this court to disqualify the trial judge if now it's the [5] Supreme Court that's in error ?

[6] MR. OLSON: Because I have the opportunity to [7] reapply, refile, if no -- none of these decisions are on the [8] merits.

[9] THE COURT: And who told you that ?

[10] MR. OLSON: If any action is -- this is section [11] 100

[12] THE COURT: Surely it has a title, doesn't it ?

[13] MR. OLSON: Title 12.

[14] THE COURT: Of what ?

[15] MR. OLSON: Of these Oklahoma courtroom rules and [16] procedures.

[17] THE COURT: No. Actually, you're probably [18] talking about Title 12 of the Oklahoma Statutes, aren't you ?

[19] MR. OLSON: Title 12.

[20] THE COURT: All right, sir.

[21] MR. OLSON: Did I say 21 ?

[22] THE COURT: No, sir. You didn't say a title. [23] You said that it came out of the Oklahoma court rules, and it [24] really didn't; it came --

[25] MR. OLSON: I thought I said "Title."

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[1] THE COURT: --from the Oklahoma statutes, I [2] think.

[3] MR. OLSON: Title 12.

[4] THE COURT: All right, sir.

[5] MR. OLSON: If any action is commenced within due [6] time, and a judgment thereon for the plaintiff is reversed, [7] or if the plaintiff fail in such action otherwise that upon [8] the merits, the plaintiff, or, if he should die, and the [9] cause of action survive, his representative may commence a [10] new action within one year after reversal or failure although [11] the time limit for commencing the action shall have expired [12] before the new action is filed.

[13] THE COURT: And you think you're timely?

[14] MR. OLSON: Yes, sir.

[15] THE COURT: Go ahead.

[16] MR. OLSON: Do you need a copy of this?

[17] THE COURT: I don't know what "this" is.

[18] MR. OLSON: This is the Court of Civil Appeals.

[19] THE COURT: I have it in the court files.

[20] MR. OLSON: Okay.

[21] THE COURT: I've looked at it today. I saw that [22] it was written by Judge Hansen.

[23] MR. OLSON: Yes, sir.

[24] THE COURT: And I believe the other two judges [25] concurred with her in the opinion.

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[1] MR. OLSON: Yes, sir.

[2] The two opposing attorneys, Julia Rieman and Robert [3] Sartin, have verified or agreed or acknowledged that I did [4] attach evidentiary materials to my response to their motions]5] for summary judgment, and it's in the

file also. But they [6] have acknowledged that I did attach them. The Court of Civil [7] Appeals said I attached none whatsoever.

[8] THE COURT: Have the opposing counsel admitted that [9] your evidence was such that it controverted their claim that [10] there was no material question of fact ? Have they confessed [11] that ?

[12] MR. OLSON: They haven't confessed that, your [13] Honor.

[14] THE COURT: And that's controlling, isn't it, in [15] motions for summary judgment ?

[16] MR. OLSON: No, sir.

[17] THE COURT: It's not ?

[18] MR. OLSON: Because --

[19] THE COURT: Are you familiar with Rule 13 --

[20] MR. OLSON: Yes, sir.

[21] THE COURT: -- of the District Courts of the [22] State of Oklahoma ?

[23] MR. OLSON: Yes, sir, I am.

[24] THE COURT: All right, sir.

[25] MR. OLSON: But if -- under Rule 13, I also have

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[1] the opportunity, or my idea has the opportunity to also use [2] the materials in their -- attached to their motions for [3] summary judgment, which was not done.

[4] THE COURT: And why was that not done?

[5] MR. OLSON: Because the Court of Civil Appeals said I had attached none whatsoever and they went on through [7] it. I don't know why they went on through it.

[8] THE COURT: But they made the determination that [9] there was no substantial question of material fact

and they went on through [7] it. I don't know why they went on through it.

[8] THE COURT: But they made the determination that [9] there was no substantial question of material fact presented [10] at summary judgment. Is that -- was that their ultimate [11] conclusion ?

[12] MR. OLSON: they said: "Olson objectedto the [13] motions for summary judgment, but submitted no evidentiary [14] materials whatsoever."

[15] THE COURT: And it doesn't end there, does it ? [16] that's pretty much at the outset of the opinion.

[17] MR. OLSON: "The trial court granted summary [18] judgment to Continental ... concluding, The old leases have [19] quite probably ..." Now, the word "probable" is in the order [20] -- in their summary judgment order.

[21] THE COURT: And did the Court of Civil Appeals [21] see that ?

[23] MR. OLSON: The Court of Civil Appeals copied [24] that.

[25] THE COURT: All right, sir. And if they saw that

[1] and copied it and then you sought relief in the Supreme Court [2] by seeking certiorari, do you think the Supreme Court saw [3] that as well ?

[4] MR. OLSON: I doubt it.

[5] THE COURT: What would have kept them from seeing [6] it ?

[7] MR. OLSON: That I sent in an eleven-page report [8] in violation of Rule 179 and they quit it right there.

[9] THE COURT: And that's your opinion ?

[10] MR. OLSON: That's my opinion, yes, sir.

[11] THE COURT: All right, sir. And upon what do

you [12] base that ?
[13] MR. OLSON: On the opinion that that was what
[14] they told me they did.
[15] THE COURT : They personally told you --
[16] MR. OLSON: Well, no. That's what they wrote
[17] in -- as I remember, that's what they wrote in the order,
[18] that it did not qualify or was contrary to
rules 179 and 178.
[19] THE COURT: Okay. Take me up the road a little
[20] farther again and tell me how this should disqualify
Judge [21] Franklin from any further action in this matter.
I'm [22] troubled a little bit about some of the arguments
that you've [23] presented. You have certain protections by
being your own [24] attorney, protections against libel and
slander, but I notice [25] that you allege
pretty dastardly attitudes or actions against

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[1] the judge in this instant. And several times I find [2]
references to local judges.
[3] MR. OLSON: Yes, sir.
[4] THE COURT: What is a local judge ?
[5] MR . OLSON: A local judge is the judge that's out
[6] of the same county that the defendants are out of.
[7] THE COURT: Do you know anything at
all about [8] Judge Franklin's elective district ?
[9] MR. OLSON: Uh --
[10] THE COURT: You're from Tulsa; is that correct ?
[11] MR. OLSON: I'm from Tulsa, yes, sir.
[12] THE COURT: Do you know that Judge Franklin is
[13] elected by citizens of nine counties ?
[14] MR. OLSON: No, sir.
[15] THE COURT: Didn't know that.

[16] MR. OLSON: No.
[17] THE COURT: Readily available to you if you just [18] check a little bit of Oklahoma's geography and history. [19] Do you know that slightly over 40 percent of the [20] population of those nine counties are from Garfield County ? [21] And I have no idea what Garfield County has to do with this [22] particular case. We're in the District Court of Blaine [23] County, aren't we ?
[24] MR. OLSON: That's the reason I think the [25] district judge in Blaine County should have heard the case

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[1] and not the district judge from Garfield County.
[2] THE COURT: Well, first of all, there isn't, [3] quote, a district judge of Blaine County unless you consider [4] Judge Franklin, because he is the chief judge of Blaine [5] County by my assignment. I happen to be the presiding [6] district judge in 18 counties, and I have assigned him as the [7] chief judge. There is not a physically resident district [8] judge in Blaine County. There is an associate district [9] judge.
[10] MR. OLSON: Okay.
[11] THE COURT: But the fact that Judge Franklin [12] resides, you say, in Garfield County, how does that have [13] significance in this case in Blaine County ?
[14] MR. OLSON: Because he came from Garfield County [15] where the defendant, Continental Resources, is located, and [16] came here to try the case, and I asked him to recuse, and he [17] said, no, he's keeping it.
[18] THE COURT: Is Continental Resources the only [19] defendant ?
[20] MR. OLSON: No, sir.
[21] THE COURT: Is there reason that a judge from

[22] some county where the other defendants were couldn't have [23] come in here ? Would you have been aggrieved if there would [24] have been somebody from their, quote, home county, as you [25] call it ?

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[1] MR. OLSON: Yes, sir.

[2] THE COURT: And did you make that known at least [3] 10 days before trial, that you we're upset by the fact that [4] Judge Franklin was a resident of Garfield County ?

[5] MR. OLSON: No, sir. I -- at that time, I didn't [6] have any grounds to ask him to recuse himself.

[7] THE COURT: And really your grounds for recusal [8] is the fact that you lost the summary judgment motion. Isn't [9] that it ? It's the result of that motion that you want, not [10] really a new judge, isn't it ?

[11] MR. OLSON: No, sir, your Honor. I want -- your [12] Honor, property was stolen from me, property worth about [13] $900,000. I think I should have the opportunity to use every [14] legal avenue I possibly can to recover my property.

[15] THE COURT: As long as you do so within the rules [16] and under the laws of the State of Oklahoma; is that --

[17] MR. OLSON: Yes, sir.

[18] THE COURT: That's also correct, isn't it ?

[19] MR. OLSON: Yes, sir.

[20] THE COURT: All right, sir. And you think a [21] significant reason for the ruling on summary judgment is the [22] fact that Judge Franklin, who resides in Garfield County, [23] came down here to try the case. Do you know how many years [24] he's been coming to Blaine County to

try cases ?
[25] MR. OLSON: How many years has he come to Blaine

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[1] County to try cases for Continental Resources?
[2] THE COURT: I have no idea. How many cases have [3] been filed against Continental Resources in this --
[4] MR. OLSON: I have no idea either, your Honor.
[5] THE COURT: You think that he just spirited this [6] case away from the local judge. Is that what you think ?
[7] MR. OLSON: That thought had crossed my mind.
[8] THE COURT: And what proof do you have of that ?
[9] MR. OLSON: I have no proof of that --
[10] THE COURT: Mm-hmm.
[11] MR. OLSON: -- other than circumstances.
[12] THE COURT: But you do have proof that the matter [13] was submitted on its merits; Judge Franklin made a decision; [14] that decision was affirmed by the Court of Civil Appeals. [15] And the Court of Civil Appeals' opinion did not result in [16] certiorari being granted by the Supreme Court. You're aware [17] of that as well, aren't you ?
[18] MR. OLSON: Yes.
[19] THE COURT: We've gone over that several times.
[20] MR. OLSON: We've gone over that several times.
[21] THE COURT: Mm-hmm.
[22] MR. OLSON: Both on what you've said and the [23] reason I object to that as none of those decisions being on [24] the merits.
[25] THE COURT: You know, as I said, you had

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[1] mentioned the U.S. Supreme Court. Maybe that's where you [2] need to go right now.
[3] MR. OLSON: Yes, sir.
[4] THE COURT: But first of all, we're going to deal [5] with the issue of whether or not Judge Franklin should be [6] recuse in this case, whether he should be removed and [7] disqualified.
[8] MR. OLSON: Yes.
[9] THE COURT: That's the issue that's before us [10] today.
[11] MR. OLSON: Yes, sir.
[12] THE COURT: Back to that. What other [13] presentations do you have ?
[14] MR. OLSON: Do you have in the file these [15] exhibits, 0.5 ?
[16] THE COURT: Yes, sir, I've seen those.
[17] MR. OLSON: You've seen those. All right. They [18] establish communication between their law firm and Judge [19] Franklin.
[20] THE COURT: Again, you're a geologist by [21] training; is that correct ?
[22] MR. OLSON: Yes, sir.
[23] THE COURT: And you've had no legal training at [24] all except, as you say, by being involved in numerous [25] lawsuits as a party; is that correct ?

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[1] MR. OLSON: My wife introduced me to the legal [2] system -- ex-wife introduced me to the legal system in 1986. [3] I have been fighting against unscrupulous operators to [4] protect my interests in oil and gas leases since about 1988. [5] Pro se attorneys do not generate much respect in court.

[6] THE COURT: And that's your opinion, correct ?
[7] MR. OLSON: That's my opinion. That's what I've [8] seen. It's been my experience. Not just my opinion, but my [9] experience. I've been in the Supreme Court nine times. I [10] have lost one; I've got two split decisions; I've won four; [11] I got two established { Robert Olson correction : published not established}; and this one, the mandate has not come [12] down yet. I don't know if you're aware or not, but I filed a [13] judicial complaint -- committee complaint against Judge [14] Franklin.
[15] THE COURT: I have no way of knowing that.
[16] MR. OLSON: Okay.
[17] THE COURT: That would be privileged information.
[18] MR. OLSON: I also filed one against Judge [19] Hansen and the Court of Civil Appeals alleging either [20] incompetence or corruption.
[21] THE COURT: Do you know Judge Hansen or anything [22] about her ?
[23] MR. OLSON: No, sir, I don't. Well, except she [24] did write the opinions on the two wins I got in Kingfisher [25] County.

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[1] THE COURT: But she has gone bad since then ?
[2] MR. OLSON: Uh --
[3] THE COURT: That's not an issue here.
[4] MR. OLSON: No. What I actually think happened [5] was that one of her interns didn't see it and told her and [6] she went ahead on the word of the intern and missed the whole [7] thing.
[8] THE COURT: And, again, that's your opinion ?
[9] MR. OLSON: That's just my opinion.

[10] THE COURT: All right All right.
[11] MR. OLSON: Now, you have looked at the time
[12] lines of when things happened in this case ?
[13] THE COURT: All right, sir. You've been involved
[14] in how many civil lawsuits yourself, if you recall.
[15] MR. OLSON: As -- as a --
[16] THE COURT: As a party.
[17] MR. OLSON: As a party ?
[18] THE COURT: Mm-hmm.
[19] MR. OLSON: Six
[20] THE COURT: And how many case files, case [21]
summaries, would you suppose you've looked at in the time
[22] that you have been doing this pro se litigating ?
[23] MR. OLSON: Case summaries --
[24] THE COURT: No. Case files, files that would [25]
contain such instruments as what you've just referred to that

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[1] -- the claim for attorney's fees with the accompanying
data [2] given under oath by the submitting attorney. How
many of [3] those have you seen ?
[4] MR. OLSON: Probably four.
[5] THE COURT: Mm-hmm. Would it surprise you
that [6] I've been seeing things like that for over 35 years ?
[7] MR. OLSON: No, sir.
[8] THE COURT: That I have seen thousands -- [9]
thousands -- of similiar summaries, and would it surprise
you [10] that you're the first person that I'm aware of that
has ever [11] raised that as an improper communication by
and between the [12] attorneys and the judge ? It's done as
-- it's commonplace. [13] It' done in almost every case in
which there is a contested [14] issue as to the amount of
attorney's fees that are due and [15] owing. Would that
surprise you at all ?

[16] MR. OLSON: We're not talking about the amount of [17] attorney's fees. We're talking about the amount of [18] communication, your Honor.
[19] THE COURT: Yes, sir. And as I see your [20] pleadings, you object more than anything else to the fact [21] that a summary or an index, an index with case citations, was [22] furnished and that a proposed order was furnished. Aren't [23] those two of your main objections ? That's the communication [24] that really has gotten under your saddle ?
[25] MR. OLSON: Yes, your Honor.

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[1] THE COURT: Were you not requested to provide a [2] proposed finding of fact and conclusions of law yourself at [3] the end of the summary judgment ?
[4] MR. OLSON: Yes. And we each provided that and [5] each provided it to the other party.
[6] THE COURT: But the fact that they did so to the [7] judge is a violation of some sort of professional rules ? Is [8] that what you are telling me ?
[9] MR. OLSON: Your Honor.
[10] THE COURT: Why, if you provided such a proposed [11] order, are you not in violation of the same restriction ?
[12] MR. OLSON: You're -- you're mixing concepts, [13] your Honor.
[14] THE COURT: Oh. Oh. So a proposed order from [15] the plaintiff is different than a proposed --
[16] MR. OLSON: No.
[17] THE COURT" -- order --
[18] MR. OLSON: No.
[19] THE COURT: -- from the defendants ?

[20] MR. OLSON: No, your Honor. We were each ordered [21] to provide our potential order and find- -- or finding of [22] facts.
[23] THE COURT: Right.
[24] MR. OLSON: We each did that, and each provided [25] it to the other party. Then they provided an additional

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[1] notebook to the judge that was highlighted with their cases.
[2] THE COURT: And you were denied the opportunity [3] to do that ?
[4] MR. OLSON: Yes, sir.
[5] THE COURT: You were -- he told you, don't bring [6] me a notebook ?
[7] MR. OLSON: No, he didn't say that.
[8] THE COURT: Don't bring me a highlighted [9] instrument ? You know, you've sent me three or four hundred [10] pages of highlighted materials.
[11] MR. OLSON: And I sent that to everybody. I [12] didn't send it just to you.
[13] THE COURT: So how is it so egregious that they [14] provided the citations of cases actually presented in open [15] court on the record and they provided an index of those same [16] cases presented in open court on the record ?
[17] MR. OLSON: Highlighted with the words they used [18] in their briefs.
[19] THE COURT: Did they "X" out or did they in any [20] way exclude materials that would have been beneficial to you ? [21] Do you know ? Did they do that ?
[22] MR. OLSON: I don't know if they did or not, your [23] Honor. There was only one copy of that made, and it

was [24] given to Judge Franklin and he threw it away.
[25] THE COURT: So what import did it have ?

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[1] MR. OLSON: He threw it away after the case, your [2] Honor, not before.
[3] THE COURT: Have you read Ms. Rieman's affidavit [4] about how she prepared that and what she did with it ?
[5] MR. OLSON: Yes, I have, your Honor. And it -- [6] and it bothered me. Why would an attorney spend two and a [7] half hours making that notebook if they didn't expect to get [8] a return on that time investment ?
[9] THE COURT: Do you suppose it has anything to do [10] with her being a conscientious representative /advocate for [11] her client ? Do you suppose it has anything to do with that; [12] that she thought that was part of the job she was supposed to [13] do to represent her client ?
[14] MR. OLSON: If it was the job she was supposed to [15] do, your Honor, she should have provided that to everybody, [16] not just the one copy to the judge.
[17] THE COURT: Was that kept secret from you, the [18] fact that he had that notebook ? Did he --
[19] MR. OLSON: It was not revealed to me. It was [20] not revealed to me, and it was not revealed that I had an [21] opportunity to also send him a notebook with my case files [22] highlighted to support my arguments.
[23] THE COURT: And in the six cases in which you've [24] been directly involved, have you ever seen such an instrument [25] before any attorney, an aid to the court such as that ?

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[1] Have you ever seen one of those before ?
[2] MR. OLSON: No.
[3] THE COURT: If I told you I've seen a thousand of [4] them, do you think I would be exaggerating ?
[5] MR. OLSON: I have no idea.
[6] THE COURT: Mm-hmm.
[7] MR. OLSON: But I think you should question those [8] things when they are provided. Those are --
[9] THE COURT: Maybe if you took a course in trial [10] practice you'd find out about things like that, Mr. Olson, [11] and know that it is commonplace and appreciated usually by [12] judges. Not always. Sometimes they're -- they may be [13] extraneous.
[14] MR. OLSON: Does that persuade the judge or make [15] the judge somewhat more --
[16] THE COURT: Absolutely not. It just makes it a [17] little easier to collect your thoughts when you get ready to [18] draft your order.
[19] MR. OLSON: Then why does the judge not ask [20] people to do that ?
[21] THE COURT: Sometimes judges do ask. Sometimes [22] it's done just as common practice within certain districts; [23] It's just an understood thing that it will happen. No [24] preclusion. Maybe a person needs to do a little [25] investigation about the history of various judicial districts

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[1] before he or she attempts to practice in those various [2] districts. [3] Can we get on with the issue of disqualification of [4] Judge Franklin ?
[5] MR. OLSON: Well, your Honor, there is no doubt [6] that they have talked to the judge.

there is no doubt --
[7] THE COURT: Who is "they" ?
[8] MR. OLSON: The opposing attorneys have talked to [9] the judge.
[10] THE COURT: And who are those attorneys, for the [11] record. The record doesn't have eyes; it can't see as you [12] wave your hand.
[13] MR. OLSON: Julia Rieman and Glenn Devoll.
[14] THR COURT: Okay. And they talked with the judge [15] outside your presence ?
[16] MR. OLSON: Yes, sir.
[17] THE COURT: And they talked about the merits of [18] the case ?
[19] MR. OLSON: They spent more time, or reported [20] more time, with the judge than would be necessary for purely [21] scheduling time.
[22] THE COURT: And who decided that they spent more [23] time than was necessary
[24] MR. OLSON: I did.
[25] THE COURT: All right, sir. And you're not a

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[1] practicing attorney; is that right ? you're a practicing [2] geologist.
[3] MR. OLSON: Yes, sir.
[4] THE COURT: All right, sir. How much time would [5] have been resonable for them to have spent with the judge, [6] in your opinion, since that's what we're dealing with.
[7] MR. OLSON: Thirty minutes or so.
[8] THE COURT: In the entire scope of the whole [9] proceeding ?
[10] MR. OLSON: No. In each time they talked to the

judge.
THE COURT: And they talked with him for more than 30 minutes at a time each time ?
MR. OLSON: Well, here's one that took, it looks like 175 minutes. Here's one for 35 minutes. Here's one for an hour and 30 minutes.
MS. RIEMAN: Your Honor --
THE COURT: And those were conferences by and between the attorneys and the judge ?
MR. OLSON: "Review Olson's objection to attorney fees. Telephone conference with Judge Franklin regarding docket."
THE COURT: So there are multiple entries on those time frames; is that right ?
MR. OLSON: Yes.

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THE COURT: It's not all communication directly with the judge. It had some other aspects as well; is that correct ?
MR. OLSON: Yes, sir.
THE COURT: And do you know what the split of those times were ?
MR. OLSON: No, sir.
THE COURT: Okay. So, again, you think that they spent more time than was reasonable and proper; is that correct ?
MR. OLSON: Yes, sir.
THE COURT: All right, and who provided you with those times ?
MR. OLSON: They did.
THE COURT: Opposing counsel --
MR. OLSON: Opposing counsel.

[17] THE COURT: -- told you how much time they'd [18] spent on each of these issues; is that right ?

[19] MR. OLSON: That's correct, sir.

[20] THE COURT: And then you made your own [21] interpretation. And if there was -- you said 1.75. If there [22] was 1.75 hours, you don't know how that time was divided, do you ?

[24] MR. OLSON: No, sir.

[25] THE COURT: Okay. All right, sir. Go ahead.

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[1] MR. OLSON: Well, this notebook -- spent two and [2] a half hours preparing this notebook -- was provided to Judge [3] Franklin on July the 11th. The hearing was on July 17th. [14] Now, when we came to the hearing, Mr. Devoll -- I met him [5] out front before. He gave me a nice smile and asked me if I [6] spent a lot of time preparing for this -- for the hearing. [7] When we got in there, there was no oral argument on the [8] hearing, and Mr. Devoll just put a pile of stuff on the desk [9] and didn't prepare for any argument whatsoever. That smile [10] told me he knew what the verdict was going to be already.

[11] THE COURT: Now, you're a geologist, not a psychologist or a psychiatrist, are you Mr. Olson ?

[13] MR. OLSON: I'm just a man. I'm a man that [14] watches people.

[15] THE COURT: Mm-hmm. And renders your opinion as [16] to what you've seen and what it means.

[17] MR. OLSON: Yes, sir. Just like everyone else.

[18] Mr. Devoll and Ms. Rieman, between July the 11th and [19] July 17th, spent one-point -- or -- yeah, Devoll

spent -- Mr. [20] Devoll spent 1.75 hours on the 13th preparing. Ms. Rieman [21] spent a half an hour on the 13th preparing. Mr. Devoll with [22] telephone conferences to opposing -- to Davis's attorney [23] spent three and a half hours preparing on the 16th. We had [24] the hearing on the 17th. Well for that hour, for that[25] length of time, that's not a whole lot of preparation for a

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[1] major hearing, and it implies to me that Mr. Devoll already [2] knew what the opinion was going to be. Didn't have to [3] prepare for it, basically; knew what it was going to be.

[4] THE COURT: Do you suppose that had anything to [5] do with the fact that, while you may have presented some [6] materials, Mr. Devoll, in his professional opinion as a [7] practitioner of some 25 or 30 years, was satisfied in his own [8] legal mind that there was no substantial question of material [9] fact raised by you in opposition to their motion for summary ? [10] Do you suppose that had anything to do with it ?

[11] MR. OLSON: I don't believe so.

[12] THE COURT: Okay. But that's, again, your [13] personal opinion; is that right ?

[14] MR. OLSON: My personal opinion.

[15] THE COURT: All right, sir. And you've been [16] involved in six lawsuits ?

[17] MR. OLSON: Yes, sir.

[18] THE COURT: All right, sir.

[19] MR. OLSON: And I assume you have seen this. [20] It' included in --

[21] THE COURT: Again, the record doesn't have eyes. [22] If you want the record to indicate

what you are attempting to [23] show me, you need to verbalize it.

[24] MR. OLSON: Okay. this is prepared by me from -- [25] these are exerpts from a book called Trial Error and

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[1] Misconduct by Bennett Gershman, Professor of law at Pace [2] University School of Law, copyright 1997, Lexis Law [3] Publishing. I pulled exerpts of that --

[4] THE COURT: Do you know -- is that a commonly [5] quoted treatise, if you know, Mr. Olson ?

[6] MR. OLSON: I have no idea. It was at the Tulsa [7] law library and I pulled it out to take a look at it.

[8] THE COURT: And just because it was in the Tulsa [9] law library, you're satified that it's valid, [10] substantiated and regularly used basis for rendering [11] opinions ?

[12] MR. OLSON: They do quote several cases and cite [13] several cases in that, yes, sir.

[14] THE COURT: All right, sir.

[15] MR. OLSON: That also meriting severe [16] condemnation are ex parte communications between the judge [17] and the prosecutor.

[18] Here we don't have a true prosecutor, but we've got -- [19] but we do have opposing attorneys.

[20] And it should not be conducted except in extraordinary [21] circumstances. Dangerous procedure when the prosecutor has [22] private access to the ear of the court.

[23] Well, I contend that Mr. Devoll and Ms.Rieman had [24] private access to the ear of the court.

[25] THE COURT: And what proof of that do you have ?

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[1] MR. OLSON: Their time sheets.
[2] THE COURT: That indicates that they talked to [3] him about the merits of the case ? Didn't have anything to do [4] with scheduling ? Didn't have anything to do with making [5] arrangments --
[6] MR. OLSON: Oh, it had --
[7] THE COURT: -- for the courtroom or a court [8] reporter or a court hearing time ?
[9] MR. OLSON: Oh, it had to do with that also.
[10] THE COURT: And you know that of your own [11] personal knowledge ?
[12] MR. OLSON: They --
[13] THE COURT: You know the content of their [14] contacts with the court ?
[15] MR. OLSON: Not a hundred percent of their [16] contact, their -- what they've been doing, no.
[17] THE COURT: All right.
[18] MR. OLSON: But that they have been contacting [19] the court, had the private ear of the court, went in to see [20] the judge and brought him the notebook.
[21] THE COURT: All right, sir.
[22] MR. OLSON: And --
[23] THE COURT: How did you get your proposed [24] findings of fact and conclusions of law to the judge ?
[25] MR. OLSON: I mailed them to him just like I

[1] mailed them to the opposing attorneys.
[2] THE COURT: Mm-hmm. And does that have anything [3] to do with the fact that you live in Tulsa and the court was [4] in Enid ? The fact that you're separated by a hundred miles [5] or so have anything to do with the method you used to deliver [6] your materials ? The fact

[2] THE COURT: Mm-hmm. And does that have anything [3] to do with the fact that you live in Tulsa and the court was [4] in Enid ? The fact that you're separated by a hundred miles [5] or so have anything to do with the method you used to deliver [6] your materials ? The fact that their office is likely -- I [7] have no idea where it is, but that their office is likely [8] within a half a mile of the courthouse, that they were [9] in the same town as the judge, and, therefore, they simply [10] delivered the materials rather than putting them in the U.S. [11] mail ? Do you think that might have any factor at all in [12] this ?
[13] MR. OLSON: If they're going to do that, they [14] should be delivered to the court, not directly to the judge.
[15] THE COURT: Tell me the difference between the [16] court and the judge.
[17] MR. OLSON: The judge is the personal person that [18] makes the judicial decisions.
[19] THE COURT: Wait a minute. Now, we were in [20] Garfield County just a minute ago because that's where Judge [21] Franklin resides.
[22] MR. OLSON: Yes, sir.
[23] THE COURT: The courthouse is here in Blaine [24] County, 75 or 80 miles away. Why wouldn't they just give it [25] directly to the judicial officer who's in the same town that

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[1] they're in as opposed to driving down here and then having it [2] sent back ?
[3] MR. OLSON: Well, they could do that. I was [4] asked to mail things to Judge Franklin and to the court.
[5] THE COURT: Because you don't have an office in [6] Enid, do you ?

[7] MR. OLSON: No, sir.
[8] THE COURT: All right, sir. Isn't there some [9] distance separating Enid and Tulsa ?
[10] MR. OLSON: Yes, sir.
[11] THE COURT: About how far is that, if you know.
[12] MR. OLSON: I would guess about 120 miles.
[13] THE COURT: I would say that would be pretty [14] accurate. Okay. So there's a little bit of difference in [15] situations between practitioners in Enid as opposed to [16] litigants in Tulsa being able to make direct contact for [17] business purposes only, scheduling purposes only, compliance [18] with the court's orders only. Wouldn't you say that's a [19] distinction ?
[20] MR. OLSON: If it is only --
[21] THE COURT And do you know otherwise ?
[22] MR. OLSON: The time line they give indicates [23] otherwise.
[24] THE COURT: And that little smile that Mr. Devoll [25] gave you is the thing that really seals the deal, right ?

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[1] MR. OLSON: No, sir. It's just one more brick.
[2] THE COURT: Okay. Go ahead.
[3] MR. OLSON: For the record --
[4] THE COURT: Everything you say is for the record.
[5] MR. OLSON: Yes, sir.
[6] MR. OLSON: That their -- when a well ceases [7] production after it has established production, the -- if [8] production is re-established and the royalty owners accept [9] royalty payments and accept the shut-in royalty payments, that [10] lease is not declared forfeited. And

Oklahoma Statute 23, [11] Section 2, is actually a statutory law against forfeiture of [12] estates.
[13] THE COURT: And isn't Title 23 -- isn't that [14] really damages ? Isn't that what that title deals with ?
[15] MR. OLSON: Damages in law, yes, sir.
[16] THE COURT: All right.
[17] MR. OLSON: But to declare my override dead on [18] Section 17 because a year has gone by without production, but [19] the landowners have accepted shut-in royalties from Davis and [20] accepted royalty payments from Davis, violates that statute [21] 23, and it also damages me because my override is gone. I'm [22] no longer being paid my override.
[23] THE COURT: Did you present this to the Court of [24] Civil Appeals ?
[25] MR. OLSON: I would have to go back and read what

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[1] I -- what I wrote.
[2] THE COURT: Mm-hmm. But, again, you're result [3] driven more that you're judge driven right now, aren't you ? [4] You want to win that summary judgment issue is what you [5] really want to win, isn't it ?
[6] MR. OLSON: Oh, yes, sir.
[7] THE COURT: Mm-hmm. Again, you're saying that [8] Judge Franklin made an error of law ?
[9] MR. OLSON: Yes, sir.
[10] THE COURT: And did you --
[11] MR. OLSON: Several errors.
[12] THE COURT: -- raise that on your appeal ?
[13] MR. OLSON: Yes, sir.
[14] THE COURT: And three judges of the Court of

[15] Civil Appeals disagreed with you; is that correct ?
[16] MR. OLSON: We've already been through that, your [17] Honor. They -- they --
[18] THE COURT: Did they reverse the decision [19] rendered against you ?
[20] MR. OLSON: No, sir, they didn't reverse it.
[21] THE COURT: So they affirmed it.
[22] MR. OLSON: They affirmed it
[23] THE COURT: All right, sir.
[24] MR. OLSON: And we've already gone through the [25] reasons why they affirmed it.

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[1] THE COURT: We've gone through the reasons why [2] you think they affirmed it.
[3] MR. OLSON: Yes, sir.
[4] THE COURT: Right ?
[5] MR. OLSON: (moves head up and down)
[6] THE COURT: And what about the nine justices on [7] the Supreme Court that denied certiorari ?
[8] MR. OLSON: We have already been through that, [9] too.
[10] THE COURT: Okay. And do you have anything else [11] to add as to why they, all nine of them, with the partial [12] exception of Justice Opala, would have said that there's no [13] need for them to look at this issue again, that the Court of [14] Civil Appeals had affirmed the trial court's decision and [15] they denied certiorari ?
[16] MR. OLSON: When my petition for certiorari was [17] eleven pages long, they ruled that I had violated the rules, [18] and, therefore, denied it.
[19] THE COURT: And that's the only reason they [20] denied it ?

[21] MR. OLSON: As I remember, that's it, yes, sir.
[22] THE COURT: All right, sir. Okay.
[23] MR. OLSON: So it didn't go to the merits.
[24] THE COURT: All right, sir. And have you brought [25] this to the attention of the Supreme Court of the United

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[1] States yet ?
[2] MR. OLSON: No, sir. I'm out of time on the [3] United States Supreme Court.
[4] THE COURT: Okay. Anything else that goes to the [5] reason that this court should disqualify Judge Franklin from [6] any further proceedings in these two cases ?
[7] MR. OLSON: No, sir.
[8] THE COURT: All right, sir. Thank you. I [9] appreciate your presentation.
[10] Ms. Rieman or Mr. Devoll, will there be any response ?
[11] MR. DEVOLL: Your Honor, after listening, and [12] having read what Mr. Olson has filed, yes, I have a response, [13] most of which I'm going to keep to myself and limit it to what [14] the issue is before this court today.
[15] I want to go on record as an officer of this court and [16] advise this court, and any others that might look at this [17] later, any contact that I had was simply [18] and solely relating to scheduling of the hearings in this [19] case. I at no time did, nor would I ever, try to discuss the [20] merits of this or any other case with Judge Franklin or any [21] other judge.
[22] I think that the affidavit of Ms. Rieman -- and that's [23] why she's here, should the Court have any questions --

speaks [24] for itself in relation to the notebook. We do that as a [25] matter of course -- the judge knows that; the Court knows

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[1] that -- as an aid to the court and a courtesy to the court.
[2] We have been fighting these motions in these two cases [3] for some time. Mr. Olson has lost the case, seems not to be [4] able to accept that result, and has struck out, in my view, [5] unjustifiably against an officer of the court, Judge [6] Franklin, in a very false and malicious way. And for that [7] aspect of his actions, I regret that, but I understand his [8] animosity towards us as opposing counsel. [9] I'll hold any other commemts that I may have but would [10] like to make, and ask that the Court leave Judge Franklin as [11] the judge on this case, and that his orders continue in [12] effect that he's already made in this matter which partially [13] relate to Mr. Olson bringing any other actions or filing any [14] other pleadings in these cases so we can finally get rid of [15] this case and move on. He continues to cost not just our [16] client, Continental Resources, but Davis Operating in Tulsa [17] money by filing these pleadings, and we need to end it, your [18] Honor. We'd ask that Judge Franklin remain on the case. [19] Thank you.
[20] THE COURT: And, Ms. Rieman, you represent the [21] same client as Mr. Devoll; is that correct ?
[22] MS. RIEMAN: Yes, your Honor.
[23] THE COURT: Very well.
[24] MS. RIEMAN: And as Mr. Devoll indicated, I'm [25] here just in case the Court would have any questions at all

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[1] regarding the preparation of that notebook that were not [2] answered by my affidavit.

[3] THE COURT: All right. I believe your affidavit [4] is sufficiently well formed to give me the information that I [5] need.

[6] They have made somewhat of an argument, Mr. Olson. Do [7] you want to be heard in rebuttal now briefly of their request [8] that the disqualification not be granted ?

[9] MR. OLSON: In their time sheets they have shown [10] that there has been communication with the judge. Whether [12] it's scheduling or other, or scheduling and other, it still [12] shows that there is continuing communication with Judge [13] Franklin. The fact that only one copy of that notebook was [14] made, that it was highlighted with -- for their cases, their [15] arguments, is significant.

[16] My brother has a friend who's a retired Texas Supreme [17] Court Justice --

[18] THE COURT: Admitted to practice in Oklahoma ?

[19] MR. OLSON: I have no idea.

[20] THE COURT: Knows anything about the facts of [21] this case ?

[22] MR. OLSON: No, sir.

[23] THE COURT: All right, sir. What relevance does [24] it have ?

[25] MR. OLSON: His opinion is that the attorneys and

[1] the judge have been talking.
[2] THE COURT: Maybe he should be directly involved [3] in the case; then his opinion would be worth something.
[4] MR. OLSON: Yes, sir. Property has been stolen [5] from me worth about $ 900,000. I think it was stolen from me [6] because I'm acting pro se and they thought they could do it. [7] They owe me a fiduciary duty, they owe me a contractual duty [8] that was not fulfilled, and I intend to explore every avenue [9] I possibly can to recover my property.
[10] I appreciate the indulgence of the Court. Thank you [11] sir.
[12] THE COURT: All right, sir. That fiduciary duty [13] issue, that was raised by you in your presentation either to [14] the Court of Civil Appeals or to the Supreme Court, was it [15] not ?
[16] MR. OLSON: Yes, sir.
[17] THE COURT: All right, sir. Very good.
[18] I hope, Mr. Olson, and I hope, Mr. Devoll and Ms. [19] Rieman, that you don't think the Court has taken an hour just [20] to spend the time. There can be no more serious charge than [21] that fraud was committed on or by the court, or that fraud [22] was committed by officers of this court, or that anyone was [23] fraudulently deprived of property and then denied access to [24] full, equal and complete justice.
[25] Mr. Olson, your presentation was remarkable for a

[1] person who doesn't regularly appear in open court. You said [2] you've been involved in six cases. And I know

you must have [3] spent a considerable time in pursuing your education. I [4] noticed that you have the initials Ph.D. after your name and [5] that you are a practicing geologist.

[6] The three years that it takes to complete law school [7] are long and arduous and very productive years. The practice [8] of law for 10 or 15 years by one of these attorneys and for [9] 20 or 25 more years by the other attorney have equal [10] importance, because they understand not only the letter of [11] the law but the niceties of the law and the requirements of [12] the Code of Judicial Conduct and the Rules of Professional [13] Conduct. [14] Every lawyer that appears in any court is an officer [15] of the court before whom he or she appears. Ms. Rieman has [16] provided a substantial affidavit outlining what she did [17] insofar as this notebook was concerned. And I have told you [18] -- and I don't mean to exaggerate; I might not have seen a [19] thousand such notebooks, but I know that I have seen several [20] hundred of such notebooks because it's very, very [21] commonplace. [22] I've been a judge for 37 years. I've tried cases in [23] over 30 counties in the state of Oklahoma. The method of [24] practice is very, very important. The rules of practice is [25] very very important. It's important, too, that people not

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[1] find fault simply because they're upset with the results. To [2] accuse a judicial officer, to accuse a practicing attorney, [3] of perpetrating fraud simply because they're upset about the [4] results and have lost a significant

amount of income-producing [5] property, while generally accepted by the populous, cannot and [6] will not be accepted by this, and I think other, courts.
[7] If you're going to cast stones about a person's [8] professional integrity, you need to have rock-hard proof. [9] There is some protection, as I said at the outset, when you [10] appear in court. You can make certain allegations in open [11] court that you can't make anyplace else, but they need to be [12] well-founded. [13] I have listened carefully. I have, I think, done my [14] homework in this case in that I have read probably a couple of [15] thousand pages of materials. I have looked at the court [16] rules. I've applied those rules to this case. You lost in [17] the trial court; the Court of Civil Appeals, with Judge [18] Hansen, one of the most respected judges in Okalhoma in the [19] last 50 years, who wrote the opinion. You've found fault with [20] the ruling made by the Supreme Court of the State

of Oklahoma [21] that was joined in by all nine sitting justices. You need to [22] accept the fact that you have lost to the present time and [23] that it is not Judge Franklin's fault that you lost; it's the [24] facts of the case and the law that's applicable to the case.
[25] The Court finds at this time there is no good and

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[1] justifiable cause to remove Judge Franklin from any further [2] participation in either of these two cases. And I don't want [3] to indulge myself too much, but you need to be aware of the [4] order that's been entered in the second case that says you're [5] not supposed to file anything else. The law of this case has [6] been established and you have been precluded from proceeding [7] further

with it in this court system. You can seek relief [8] some other places, and you've already indicated that you [9] might. [10] I read a couple of places in your materials where you [11[were threatened, and then I read the letter that provided the [12] threat concerning the hearing on assets. Threats in the oil [13] patch must be a little bit different than they are in the [14] courtroom, because I didn't see anything that even partially constitutes a threat when you were asked if your schedule [16] would permit you to appear at a hearing on assets within 10 [17] days. That can't even be a veiled threat, in my opinion.

[18] Judge Franklin remains in the case, and that becomes [19] the order of this court.

[20] Thank you, ladies and gentlemen. That will conclude [21] this hearing.

[22] MR. DEVOLL: Thank you, your Honor

[23] (End of Proceedings)

* * * * *

Certified by :

s/ Mark Fike

Certified Shorthand Reporter

ORIGINAL

IN THE SUPREME COURT OF THE STATE OF OKLAHOMA

ROBERT OLSON Petitioner, v. THE HONORABLE RONALD G. FRANKLIN, District Judge, of Blaine County. Respondent	) Received 3-15-05) Docketed:_____) Marshal: _____) COA/OHC_____) COA/TDL"_____))No. 101,682))))	FILED SUPREME COURT STATE OF OKLAHOMA MAR 15, 2005 MICHAEL S. RICHIE, CLERK

MOTION FOR REHEARING

COMES NOW THE PETITIONER, Robert Olson, and requests a rehearing from the Order of February 28, 2005, for the following reasons:

OUTLINE

I. Introduction. Title of "Justice"

Words have meaning. The Title of "Justice" stands for honor and integrity.

II. Never had my fair day in Court

Every action in Blaine County Case CJ-2002-151 thwarted petitioner's opportunity for a fair trial.

III. Judicial C[illegible]nce

No competent ju[illegible] can miss as many points of law as Judge Franklin did and not have been influenced.

IV. Hard vs. Soft Corruption

Judge violating Title 5, Code of Judicial Conduct and the substantive notebook on the merits is a concrete example of soft corruption.

V. Integrity of the Judicial Process

The judiciary must be held to the highest standards to uphold the integrity of the judicial process.

VI. Prayer

INTRODUCTION : TITLE OF "JUSTICE "

Words have meaning. Whole concepts are their foundation. The choice of words reflects the concepts that have impinged upon the user of the words. The choice of words selected to be used reflects the concepts the user wants to convey and the thought processes of the user of those words.

Each member of the Oklahoma Supreme Court carries the Title of Justice. That Title is a special designation of the highest standard of honor and integrity. It represents the espoused goal of the Oklahoma Supreme Court.

FAIR DAY IN COURT

I, Robert Olson, have not had my fair and honest day in court. In my case (Blaine County, CJ-2002-151). the summary judgment order was premature and there apparently was judicial misconduct, the Court of Civil Appeals made plain error (#99704) and I was held to the highest standard of the Supreme Court rules for Certiorari (11 pages, no discretion).

JUDICIAL COMPETENCE OF THE DISTRICT COURT JUDGE

District Court Judge Ronald G. Franklin missed the following points of law in his order for summary judgment:

1. Summary judgments are not favored.

2. The word "probably" in the summary judgment order indicates ambiguity in the facts.

3. Application of the Surrender Clause is an oil and gas lease.

4. The proper application of the Habendum Clause in an oil and gas lease.

5. When oil and gas production is established, an estate is established.

6. Re: The estate in an oil and gas lease; loss is a question of forfeiture, not one of expiration.

7. Lease assignments from base leases where the assignment is not 100%, are subleases.

8. The oil and gas lease contract relationships.

9. Fiduciary imposed by power and control.

10. The viability of the legal position of the base oil and gas leases.

If a Judge is that incompetent, he would be disqualified. A fair and impartial, competent judge would not miss that many points of law. No one has said Judge Franklin is incompetent. The evidence shows he violated the law and his impartiality is subject to question. For this, he should be disqualified.

HARD VS. SOFT CORRUPTION – THE NOTEBOOK

Hard corruption is when a judge accepts money or favors in exchange for a favorable decision. Soft corruption occurs when factors or circumstances other than the strict and impartial following of the law are considered.

The Notebook

Opposing counsel spent 2.5 hours compiling and highlighting the cases supporting their arguments in Blaine County Case CJ-2002-151. That is substantive and on the merits.

Judge Franklin accepted this substantive notebook on the merits. The notebook was hand delivered directly to the judge, not to his clerk. The notebook amounts to a special, personal and private brief or presentation of the opposing counsels' side of the case done outside the proscribed rules of procedure. It was done without any opportunity for any response from me.

This is a concrete example of soft corruption; bias and influence. It is imperative grounds for judicial disqualification. Canon 3(B)(6)(a) of the Judicial Code of Conduct, Title 5 of the Oklahoma Statutes.

INTEGRITY OF THE JUDICAL PROCESS

Truth is consistent. Falsehood is inconsistent. Truth, honor, justice and integrity are concepts that are whole; they cannot be parsed.

In my request for certiorari in case # 99704, the Court strictly enforced Supreme Court Rules 1.178 and 1.179. In the Court's ruling on February 28, 2005, in case #101,682, the Supreme Court of Oklahoma did not strictly enforce Canon 3(B)(6)(a) of the Code of Judicial Conduct. These two rulings are inconsistent. It gives the appearance of favoritism. Judge Franklin not only violated the Code of Judicial Conduct, he violated the law as codified under Title 5 of the Oklahoma Statutes.

The only currency of respect from the general public that the Court has is its reputation for integrity. Anything that gives the appearance of corruption (here: proof of soft corruption and breaking of the law (Title 5)) destroys the appearance of impartiality. Judicial credibility is the only bastion of respect and support the judiciary has.

The Judiciary must be held to the highest standards to uphold the integrity of the judiciary process. Title 5 of the Oklahoma Statutes was written to ensure justice.

PRAYER

The Petitioner, Robert Olson, prays the Court reconsider the subject of disqualification and reconsider its ruling of February 28, 2005. The Petitioner prays that for the above stated reasons and that the notebook was substantive in nature and was on the merits, Judge Ronald G. Franklin be disqualified

Respectfully submitted

S/ Robert Olson

Robert Olson
9022 E. 60th St.
Tulsa, Oklahoma 74145
918 252 1987

IN THE SUPREME COURT OF THE
STATE OF OKLAHOMA

FILED
SUPREME COURT
STATE OF OKLAHOMA
MARCH 23, 4005
MICHAEL S. RICHIE, CLERK

ROBERT OLSON Petitioner,	)	
v.	)	
THE HONORABLE RONALD G. FRANKLIN, District Judge , of Blaine County.	)	
Respondent	)	No. 101,682

CLOSING ARGUMENT IN

MOTION FOR REHEARING

COMES NOW THE PETITIONER, Robert Olson, and makes this closing argument for the Motion for Rehearing and in the rehearing from the Order of February 28, 2005.

The social contact for Public Service is the protection of the ordinary, individual citizen. This is most dramatically apparent in the police and fire departments. It is equally applicable to the Judiciary; which is a branch of law enforcement.

If there is any doubt at all in any judicial proceeding, the benefit of the doubt must go to the ordinary

citizen. That is the reason summary judgments are not favored.

If the one ordinary citizen is not protected, the public will not have confidence that any citizen will be protected.

To fulfill the Social Contract of Public Service, the Oklahoma Supreme Court must disqualify Judge Ronald G. Franklin in this case.

Respectfully submitted,

S/Robert Olson

Robert Olson, Pro Se
9022 E. 60th St.
Tulsa, Oklahoma 74145
918 252 1987

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

U.S.C.S. Const. Amend. 14, §1 (2005)

Sec. 1. [citizens of the United States]

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life,liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

28 U.S.C.A. §455 (a)

Any justice, judge, or magistrate judge of the United States shall disqualify himself in any proceeding in which his impartiality might reasonably be questioned.

CODE OF JUDICIAL CONDUCT

Effective November 1, 1997

Including Amendments received through November 1, 2003

Research Note

Annotations to the Code of Judicial Conduce are available in Oklahoma Statutes Annotated, *Title 5, Chapter 1, Appendix 4, and in the OK-RULES database on* Westlaw®. Westlaw *may also be used to search for specific terms in court rules or to update court rules. See the OK-RULES and OK-ORDERS Scope Screens for further information.*

Amendments to these rules are published, as received, in the P.3d *and* Oklahoma Decisions *advance sheets.*

Canon

1. A Judge should Uphold the Integrity and Independence of the Judiciary.
2. A Judge Should Avoid Impropriety and the Appearance Of Impropriety in All of the Judge's Activities.
3. A Judge Should Perform the Duties of Judicial Office Impartially and Diligently.

CANON 1. A JUDGE SHOULD UPHOLD THE INTEGRITY AND INDEPENDENCE OF THE JUDICIARY

An independent and honorable judiciary is indispensable to justice in our society. A judge should participate in establishing, maintaining and enforcing high standards of conduct, and should personally observe those standards so that the integrity and independence of the judiciary will be preserved. The provisions of this Code are to be construed and applied to further that objective.

[Effective November 1, 1997.]

CANON 2. A JUDGE SHOULD IMPROPRIETY AND THE APP[illegible]RANCE OF IMPROPRIETY IN ALL OF THE J[illegible]GE'S ACTIVITIES

A. A judge should respect and comply with the law and act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.

B. A judge should not allow family social, political or other relationships to influence the judge's judicial conduct or judgment. A judge should not lend the prestige of judicial office to advance the private interests of the judge or others; nor should a judge convey or permit others to convey the impression that they are in a special position to influence the judge. A judge should not testify voluntarily as a character witness.

[Effective November 1, 1977,]

CANON 3. A JUDGE SHOULD PERFORM THE DUTIES OF JUDICIAL OFFICE IMPARTIALLY AND DILIGENTLY

A. Judicial Duties in General. The judicial duties of a judge take precedence over all the judge's other activities. The judge's judicial duties include all the duties of the judge's office prescribed by law. In performance of those duties, the following standards apply.

B. Adjudicative Responsibilities.

(1) A judge should be faithful to the law and maintain professional competence in it. A judge should not be swayed by partisan interests, public clamor or fear of criticism.

(2) A judge should require order and decorum in proceedings before the judge.

(3) A judge should be patient, dignified and courteous to litigants, jurors, witnesses, lawyers and others with whom he the judge deals in official capacity, and should require similar conduct of lawyers, and of his staff, court

officials and others subject to the judge's direction and control.

(4) A judge should perform judicial duties without bias or prejudice. A judge should not, in the performance of judicial duties, by words or conduct manifest bias or prejudice, including but not limited to bias or prejudice based upon race, sex, religion, national origin, disability, age, sexual orientation or socioeconomic status, and should not permit staff, court officials and others subject to the judge's direction and control to do so.

(5) A judge should require lawyers in proceedings before the judge to refrain from manifesting, by words or conduct, bias or prejudice based upon race, sex, religion, national origin, disability, age , sexual orientation, or socioeconomic status, against parties, witnesses , counsel or others. This Section 3B(5) does not preclude legitimate advocacy when race, sex, religion, national origin, disability, age , sexual orientation or socioeconomic status, or other similar factors, are issues in the proceeding.

(6) A judge should accord to every person who has a legal interest in a proceeding, or that person's lawyer, the right to be heard according to law. A judge should not initiate, nor consider ex parte communications, or consider other communications made to the judge outside the presence of the parties concerning a pending or impending proceeding except that:

> **(a)** Where circumstances require, ex parte communications for scheduling, administrative purposes or emergencies that do not deal with substantive matters or issues on the merits are authorized; provided that the judge reasonable believes that no party will gain a procedural or tactical advantage as a result of the ex parte communication.

(b) A judge may obtain the advice of a disinterested expert on the law applicable to a proceeding before the judge if the judge gives notice to the parties of the person consulted and the substance of the advice, with a record being made, and affords the parties reasonable opportunity to respond.

C. Disciplinary Responsibilities. A judge should report to the appropriate disciplinary authority any unprofessional conduct of a judge or lawyer of which the judge may become aware.

D. Disqualification.

(1) A judge should disqualify himself or herself in a proceeding in which the judge's impartiality might reasonable be questioned, including but not limited to instances where:

(a) the judge has a personal bias or prejudice concerning a party or a party's lawyer, or personal knowledge of disputed evidentiary facts concerning the proceeding;

(b) the judge served as a lawyer in the matter in controversy, or a lawyer with whom the judge previously practiced law served during such association as a lawyer concerning the matter, or the judge has been a material witness concerning it;

(c) the judge knows that he or she, individually or as a fiduciary, or the judge's spouse, parent or child wherever residing, or any other member of the judge's family residing in the judge's household, has an economic interest in the subject matter in controversy or has an interest more than de minimis that could be substantially affected by the proceeding;

(d) the judge or the judge's spouse, or a person within the third degree of relationship to either of them, or the spouse of such a person;

(i) is a party to the proceeding, or an officer, director or trustee of a party;

(ii) is acting as a lawyer in the proceeding;

(iii) is known by the judge to have an interest more than de minimis that could be substantially affected by the proceeding.

(iv) is to the judge's knowledge likely to be a material witness in the proceeding.

(2) A judge shall keep informed about the judge's personal and fiduciary economic interests, and make a reasonable effort to keep informed about the personal economic interests of the judge's spouse and minor children residing in the judge's household.

OKLAHOMA RULES OF PROFESSIONAL CONDUCT

Effective July 1, 1988

Including Amendments Received Through
November 1, 2004

Research Note

Annotations to the Oklahoma Rules of Professional Conduct are available in Oklahoma Statutes Annotated, *Title 5, Chapter 1, Appendix 3-A, and in OK-RULES database on* Westlaw®. Westlaw *may also be used to search for specific terms in court rules or to update court rules. See the OK-RULES and OK-ORDERS Scope Screens for further information.*

Amendments *to these rules are published, as received, in the* P.3d *and* Oklahoma Decisions *advance sheets.*

RULE 1.2 SCOPE OF REPRESENTATION

(a) A lawyer shall abide by a client's decisions concerning the objectives of representation, subject to paragraphs (b), (c), and (d) and shall consult with the client as to the means by which they are to be pursued. A lawyer shall abide by a client's decision whether to accept an offer of settlement of a matter. In a criminal case, the lawyer shall abide by the client's decision, after consultation with the lawyer, as to a plea to be entered, whether to waive jury trial and whether the client will testify.

(b) A lawyer may limit the objectives of the representation if the client consents after consultation.

(c) A lawyer shall not counsel a client to engage, or assist a client, in conduct that the lawyer knows is criminal

fraudulent, but a lawyer may discuss the legal consequences of any propose course of conduct with a client and may counsel or assist a client to make a good faith effort to determine the validity, scope, meaning or application of the law.

(d) When a lawyer knows that a client expects assistance not permitted by the Rules of Professional Conduct or other law, the lawyer shall consult with the client regarding the relevant limitation on the lawyer's conduct.

[Adopted effective July 1, 1998.]

RULE 3.3 CANDOR TOWARD THE TRIBUNAL

(a) A lawyer shall not knowingly:

(1) make a false statement of fact or law to a tribunal;

(2) fail to disclose a fact a fact to a tribunal when disclosure is necessary to avoid assisting a criminal or fraudulent act by the client;

(3) fail to disclose to the tribunal legal authority in the controlling jurisdiction know to the lawyer to be directly adverse to the position of the client and not disclosed by opposing counsel; or

(4) offer evidence that the lawyer knows to be false. If a lawyer has offered material evidence and comes to know of its falsity, the lawyer shall take the following remedial measures.

(A) When a client has offered false evidence, the lawyer shall promptly call upon the client to rectify the same; if the client refuses or is unable to do so, the lawyer shall promptly reveal its false character to the tribunal; or

(B) When a person other than a client has offered false evidence, the lawyer shall promptly reveal its false character to the tribunal.

(b) The duties stated in paragraph (a) are continuing,

and apply even if compliance required disclosure of information otherwise protected by Rule 1.6.

Misleading Legal Argument. Legal argument based on a knowingly false representation of law constitutes dishonesty toward the tribunal. A lawyer is not required to make a disinterested exposition of the law, but must recognize the existence of pertinent legal authorities. Furthermore, as stated in paragraph (a)(3), an advocate has a duty to disclose directly adverse authority in the controlling jurisdiction which has not been disclosed by the opposing party. The underlying concept is that legal argument is a discussion seeking to determine the legal premises properly applicable to the case.

False Evidence. When evidence that a lawyer knows to be false is provided by a person who is not the client, the lawyer must refuse to offer it regardless of the client's wishes.

When false evidence is offered by the client, however, a conflict may arise between the lawyer's duty to keep the client's revelations confidential and duty of candor to the court. Upon ascertaining that material evidence is false, the lawyer should seek to persuade the client that the evidence should not be offered or, if it has been offered, that its false character should immediately be disclosed. If the persuasion is ineffective, the lawyer must take reasonable remedial measures.

RULE 3.5 IMPARTIALITY AND DECORUM OF THE TRIBUNAL

A lawyer shall not:

(a) seek to influence a judge, juror, prospective juror or other decision maker except as permitted by law or the rules of a tribunal.

(b) in an adversary proceeding, communicate or cause another to communicate as to the merits of the cause, with a judge or an official before when the proceeding is pending except:

(1) in the course of the official proceeding in the cause;

(2) in writing if the lawyer promptly delivers a copy of the writing to the opposing counsel or to the adverse party if not represented by a lawyer;

(3) orally upon notice to opposing counsel or to the adverse party if not represented by a lawyer; and

(4) as otherwise authorized by law; or

(c) communicate directly or through another with a juror or prospective juror except as permitted by law or the rules of court; or

(d) engage in conduct intended to disrupt a tribunal.

[Adopted effective July 1, 1988.]

RULE 8.4 MISCONDUCT

It is professional misconduct for a lawyer to:

(a) violate or attempt to violate the Rules of Professional Conduct, knowingly assist or induce another to do so, or do so through the acts of another;

(b) commit a criminal act that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer in other respects;

(c) engage in conduct involving dishonesty, fraud, deceit or misrepresentation;

(d) engage in conduct that is prejudicial to the administration of justice;

(e) state or imply an ability to influence improperly a government agency or official; or

(f) knowingly assist a judge or judicial officer in conduct that is a violation of applicable rules of judicial conduct or other law.

[Adopted effective July 1, 1988]

RULES FOR DISTRICT COURTS OF OKLAHOMA

Adopted Effective January 1, 1982

Including Amendments Received Through

November 1, 2004

Research Note

Annotations to the Rules for District Courts of Oklahoma are available in Oklahoma Statutes Annotated, *Title 12, Chapter 2, Appendix 1, and in the OK-RULES database on* Westlaw. Westlaw *may also be used to search for specific terms in court rules or to update court rules. See the OK-RULES and OK-ORDERS Scope Screens for further information.*

Amendments to these rules are published, as received, in the P.3d *and* Oklahoma Decisions *advance sheets.*

RULE 15. DISQUALIFICATION OF JUDGES IN CIVIL AND CRIMINAL CASES

a. Before filing any motion to disqualify a judge, an in camera request shall first be made to the judge to disqualify or to transfer the cause to another judge. If such request is not satisfactorily resolved, not less than ten (10) days before the case is set for trial a motion to disqualify a judge or to transfer a cause to another judge may be filed and a copy delivered to the judge.

b. Any interested party who deems himself agrieved by the refusal of a judge to grant a motion to disqualify or transfer a cause to another judge may re-present his motion to the Chief Judge of the county in which the cause is pending or, if the disqualification of a

Chief Judge is sought, to the Presiding Judge of the administrative district by filing in the case within five (5) days from the date of said refusal a written request for re-hearing. A copy of the request shall be mailed or delivered to the Chief Judge or the Presiding Judge, to the adverse party and to the judge who entered the original order. If the hearing before the second judge results in an order adverse to the movant, he shall be granted not more than five (5) days to institute a proceeding in the Supreme Court or the Court of Criminal Appeals for a writ of mandamus. Neither the Supreme Court nor the Court of Criminal Appeals will entertain an original proceeding to disqualify a judge or to direct a judge to transfer a cause to another judge unless it is shown that the relief sought was previously denied by the judge to whom the matter was re-presented in accordance with this rule. An order favorable to the moving party may not be reviewed by appeal or other method.

c. An original proceeding in mandamus to disqualify a judge in a civil action or proceeding shall be brought in the Supreme Court; an original proceeding in mandamus to disqualify a judge in a criminal case or proceeding shall be brought in the Court of Criminal Appeals. If mandamus is not brought in the appellate court designated as proper by this rule, the case will be transferred to the proper court either on motion or sua sponte. Art. VII, § 4 Okla. Const.

OKLAHOMA STATUTES INVOLVED

OKLAHOMA STATUTES ANNOTATED

O.S. Title 12. § 100. Limitation of new action after reversal or failure otherwise than on merits

If any action is commenced within due time, and a judgment thereon for the plaintiff is reversed, or if the plaintiff fail in such action otherwise than upon the merits, the plaintiff, or, if he should die, and the cause of action survive, his representatives may commence a new action within one (1) year after the reversal or failure although the time limit for commencing the action shall have expired before the new action is filed.

R.L.1910, § 4662; Laws 1975, c. 44 § 1, emerg. eff. March 31, 1975.

O.S. Title 21 § 461. Larceny or destruction of records by clerk or officer

Any clerk, register or other officer having the custody of any record, maps or book, or of any paper or proceeding of any court of justice, filed or deposited in any public office, who is guilty of stealing, willfully destroying, mutilating, defacing, altering or falsifying or unlawfully removing or secreting such record, map, book, paper or proceeding, or who permits any other person so to do, shall be guilty of a felony punishable by imprisonment in the State Penitentiary not exceeding five (5) years, and in addition thereto, such person shall forfeit office.

R.L.1910 § 2207; Laws 1997, c. 133, § 201, eff. July 1, 1999; Laws 1999, 1st Ex.Sess., c. 5, § 112, eff. July 1, 1999

O.S. Title 21 § 463. Offering forged or false instruments for record

Any person who knowingly procures or offers any false or forged instrument to be filed, registered, or recorded in any public office within this state, which instrument, if genuine, might be filed or registered or recorded under any law of this state or of the United States, shall be guilty of a felony.

R.L.1910, § 2209; Laws 1997, c. 133 § 203, eff. July 1, 1999.[1]

O.S. Title 21 § 1451. Embezzlement defined

A. Embezzlement is the fraudulent appropriation of property of any person or legal entity, legally obtained, to any use or purpose not intended or authorized by its owner, or the secretion of the property with the fraudulent intent to appropriate it to such use or purpose, under any of the following circumstances:

1. Where the property was obtained by being entrusted to that person for a specific purpose, use, or disposition and shall include, but not be limited to, any funds "held in trust" for any purpose;

2. Where the property was obtained by virtue of a power of attorney being granted for the sale or transfer of the property;

3. Where the property is possessed or controlled for the use of another person;

4. Where the property is to be used for a public or benevolent purpose;

5. Where any person diverts any money appropriated by law from the purpose and object of the appropriation;

6. Where any person fails or refuses to pay over to the state, or appropriate authority, any tax or other monies collected in accordance with state law, and who appropriates the tax or monies to the use of that person, or to the use of any other person not entitled to the tax or monies;

7. Where the property is possessed for the purpose of transportation, without regard to whether packages containing the property have been broken;

8. Where any person removes crops from any leased or rented premises with the intent to deprive the owner or landlord interested in the land of any of the rent due from that land, or who fraudulently appropriates the rent to that person or any other person; or

9. Where the property is possessed or controlled by virtue of a lease or rental agreement, and the property is willfully or intentionally not returned within ten (10) days after the expiration of the agreement.

Embezzlement does not require a distinct act of taking, but only a fraudulent appropriation, conversion or use of property.

B. Except as provided in subsection C of this section, embezzlement shall be punished as follows:

1. If the value of the property embezzled is less than Five Hundred Dollars ($500.00), any person convicted shall be punished by a fine not exceeding One Thousand Dollars ($1,000.00), or by imprisonment in the county jail for a term not more than one (1) year, or by both such fine and imprisonment;

2. If the value of the property embezzled is Five Hundred Dollars ($500.00), or more but less than One Thousand Dollars ($1,000.00), any person convicted shall be guilty of a felony and shall be punished by imprisonment in the county jail for one or more nights or weekends pursuant to Section 991a-2 of Title 22 of the Oklahoma Statutes, at the discretion of the court, and shall be subject to a fine not exceeding Five Thousand Dollars ($5,000.00), and ordered to pay restitution to the victim as provided in Section 991f of Title 22 of the Oklahoma Statutes;

3. If the value of the property embezzled is One Thousand Dollars $1,000.00) or more but less than Twenty-five Thousand Dollars ($25,000,00), any person convicted shall be guilty of a felony and shall be punished by imprisonment in the State Penitentiary for a term of not more than five (5) years, and a fine of not exceeding Five Thousand Dollars ($5,000.00), and ordered to pay restitution to the victim as provided in Section 991f of Title 22 of the Oklahoma Statutes; or

4. If the value of the property embezzled is Twenty-five Thousand Dollars ($25,000.00) or more, any person convicted shall be guilty of a felony and shall be punished by imprisonment in the State Penitentiary for a term of not more than ten (10) years, and a fine not exceeding Ten Thousand Dollars ($10,000.00), and ordered to pay restitution to the victim as provided in Section 991f of Title 22 of the Oklahoma statutes.

C. Any county or state officer, deputy or employee of such officer, who shall divert any money appropriated by law from the purpose and object of the appropriation, shall, upon conviction, be guilty of a felony punishable by

imprisonment in the State Penitentiary for a term not less than one (1) year not more than ten (10) years, and a fine equal to triple the amount of money so embezzled and ordered to pay restitution to the victim as provided in Section 991f of Title 22 of the Oklahoma Statutes. The fine shall operate as a judgment lien at law on all estate of the party so convicted and sentenced, and shall be enforced by execution or other process for the use of the person whose money or other funds or property were embezzled. In all cases the fine, so operating as a judgment lien, shall be released or entered as satisfied only by the person in interest.

R.L.1910, § 2670; Laws 2002, c. 460, § 12, eff. Nov. 1, 2002.

[1] Notes of Decisions

1. **In general**: It is immaterial how instrument was forged or whether defendant forged it or not. The question is, did defendant present the forged instrument for record? Fowler v. State, Okla.Crim.App., 20 Okla.Crim. 410, 203 P. 900 (1922).

2. **Evidence**: In prosecution under this section, proof of ways, means, and circumstances of uttering a false or forged instrument was sufficient, and not at variance with the allegations. Fowler v. State, Okla.Crim.App., 20 Okla.Crim. 410, 203 P. 900 (1922).

O.S. Title 21 § 1561. Wills, deeds and certain other instruments, forgery of

Every person who, with intent to defraud, forges, counterfeits or falsely alters:

1st Any will or codicil of real or personal property, or any deed or other instrument being or purporting to be the act of another, by which any right or interest in real property is, or purports to be, transferred, conveyed or in any way changed or affected; or,

2nd Any certificate or endorsement of the acknowledgment by any person of any deed or other instrument which by law may be recorded or given in evidence, made or purporting to have been made by any officer duly authorized to make such certificate or endorsement; or,

3rd Any certificates of the proof of any deed, will, codicil or other instrument which by law may be recorded or given in evidence, made or purporting to have been made by any court or officer duly authorized to make such certificate, is guilty of forgery in the first degree.

R.L. 1910, § 2621.[1] [2] [3] [4] [5] [6] [7] [8] [9] [10] [11] [12]

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[1] Notes on Decisions

Essential elements of forgery are false writing or material alteration of instrument, instrument which, as made, is apparently capable of defrauding, and intent to defraud. Willingham v. State, Okl.Cr., 549, P.2d 350 (1976); Burns v. State, 72 Okla.Crim. 409, 117 P.2d 144 (1941); Jones v. State, 69 Okla.Crim. 244, 101 P.2d 860 (1940).

[2] This section is violated regardless of whose right may be affected, even though it may not be right of one whom offender intended to defraud, and it is sufficient that fraud is perfected on owner and holder of a right. Rayboum v. State, Okla.Crim.App. 339 P.2d 539 (1958).

[3] Where defendant had intent and design to affect title to real property by forging mortgage release, crime was complete when mortgage release was filed of record. Rayboum v. State, Okla.Crim.App., 339 P.2d 539 (1958)

[4] "Forgery" and "altering a forged instrument" are wholly distinct crimes. Burns v. State, Okla.Crim.App., 72 Okla.Crim. 409, 117 P.2d 144 (1941).

[5] "Forgery" is the false making or materially altering, with intent to defraud, of any writing which, if genuine, might apparently be of legal efficacy or the foundation of a legal liability, the fraudulent making or altering of a writing to prejudice of another's rights. Moss v. Arnold, Okla.Crim.App., 63 Okla. Crim. 343, 75 P.2d 491 (1938).

[6] "Forgery" is an attempt to defraud a person of his property, whether real or personal, by the making of a false or fraudulent written instrument of title, or a false evidence of indebtedness, and the like. State v. McCray, Okla.Crim.Ap., 15 Okla.Crim. 316, 176 P. 418 (1918).

[7] It is necessary hereunder, that forged instrument, upon its face, complies with all requirements of law to constitute document a deed. Bell v. State, Okla.Crim.App. 12 Okla.Crim. 453, 158 P. 402 (1916).

[8] In order to constitute forgery hereunder, it is not necessary that document alleged to have been forged should be capable upon its face of deceiving third party. It is sufficient if instrument is, or purports to be, act of another, by which any right or interest in real property is or purports to be transferred. McDonald vs. State, Okla.Crim.App. 12 Okla.Crim. 144, 152 P. 610 (1915).

[9] Forgery may be committed of any instrument of writing, which , if genuine, would or might operate as foundation of another man's liability or the evidence of his rights. Territory v. De Lena, Okla., 3 Okla., 573, 41 P. 618 (1895).

[10] **Invalid Instruments:** A false instrument made with intent to defraud, which is good on its face, may be legally capable of effecting frauds, although inquiry into extrinsic facts would show it to be invalid, even if it were genuine, and therefore forging of such an instrument is a crime. Moss v. Arnold, Okla.Crim.Ap., 63 Okla.Crim. 343, 75 P.2d 491 (1938).

O.S. Title 21 § 1585. Forging process of court or title to property, etc.

Every person who, with intent to defraud, falsely marks, alters, forges or counterfeits:

1. Any instrument in writing, being or purporting to be any process issued by any competent court, magistrate, or officer of being or purporting to be any pleading, proceeding, bond or undertaking filed or entered in any court, or being or purporting to be any license or authority authorized by any statute; or,

2. Any instrument of writing, being or purporting to be the act of another by which any pecuniary demand or obligation is, or purports to be created, increased, discharged or diminished or by which any rights or property whatever are, or purport to be, transferred, conveyed, discharged, diminished, or in any manner affected, the punishment of which is not hereinbefore prescribed, by which false marking, altering, forging or counterfeiting, any person may be guilty of a forgery in the second degree. R.L. 1910, § 2637.[13] [14] [15] [16] [17] [18] [19] [20]

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[11] **Purchasers in good faith:** Forged deed, though duly recorded, is ineffective as muniment of title, even as to subsequent purchaser in good faith. Kline v. Mueller, Okla., 135 Okla. 123, 276 P. 200 (1928).

[12] **Indictment or Information:** Under provision of this section providing that person who, with intent to defraud, forges any instrument by which right in real property is affected, an erroneous allegation in information as to person injured or intended to be injured is not material, and an intent to defraud any person, association or body politic or corporate by means of any forged deed or other instrument is sufficient. Raybourn v. State, Okla.Crim.App. 339 P.2d 539 (1958)

[13] Notes on Decisions

"Forgery" is an attempt to defraud a person of his property, whether real or personal, by the making of a false or fraudulent written instrument of title, or a false evidence of indebtedness and the like.

State vs. McCray, Okla.Crim.App., 15 Okla.Crim. 316, 176 P. 418 (1918).

[14] It is not essential that the document forged be deceptive on its face, but it is sufficient that it is or purports to be another's act, by which any interest in reality is or purports to be transferred. McDonald v. State, Okla.Crim.App., 12 Okla.Crim. 144, 152 P. 610 (1915).

[15] Any instrument required to evidence a relinquishment of a right of property may be the subject of forgery. Coleman v. Territory, Okla. 5 Okla. 201, 47 P. 1079 (1897).

[16] In prosecution for forgery in the second degree, proof concerning accused's alleged guilty knowledge and intent to defraud could be made by circumstantial, as well as by direct testimony. Smith v. State, Okl.Cr.App., 291 P.2d 378 (1956); Taylor v. State, 65 Okla.Crim. 432, 88 P.2d 665 (1939).

[17] Where there is a present intent to defraud, the crime of forgery is complete, whether the expected advantage is to accrue from it to the defendant personally, or to another, or whether that purpose is successfully attained or not. Snider v. State, 71 Okla.Crim. 98, 108 P.2d 552 (1941); Boyer v. State, 68 Okla.Crim. 220, 97 P.2d 779 (1940).

[18] Injury to victim without advantage to defendant is sufficient to complete second degree forgery. Ausmus v. State, Okla.Crim.App. 43 Okla.Crim. 66, 277 P. 259 (1929).

[19] **Repayment as defense:** In prosecution in Oklahoma for crime of forgery, trial court properly held that defendant's intention to repay did not constitute a defense. Acuff v. State, Okla.Crim.App. 283 P.2d 856 (1955).

[20] Repayment of money obtained by means of forgery is second degree after former conviction of felony did not defeat charge. O'Neil v. State, Okla.Crim.App., 76 Okla.Crim. 107, 134 P.2d 1033 (1943).

O.S. Title 21 § 1701. Larceny defined

Larceny is the taking of personal property accomplished by fraud or stealth, and with intent to deprive another thereof.
R.L. 1910, § 2652

O.S. Title 23 § 2. Damages as relief from forfeiture

Whenever, by the terms of an obligation, a party thereto incurs a forfeiture, or a loss in the nature of a forfeiture, by reason of his failure to comply with its provisions, he may be relieved therefrom, upon making full compensation to the other party, except in case of a grossly negligent, willful or fraudulent breach of duty.
R.L. 1910 § 2844.

1. **In general**

Courts are statutorily mandated to avoid the effect of forfeiture by giving due consideration to compelling equitable circumstances. Stewart v. Amerada Hess Corp., Okla., 604 P.2d 854 (1979).

IN THE DISTRICT COURT OF
BLAINE COUNTY
STATE OF OKLAHOMA

ROBERT OLSON,	)	
Plaintiff.	)	
-vs-	)	
CONTINENTAL RESOURCES,	)	Case No.
INC., HAROLD HAMM, TOM	)	
LUTTRELL, DAVIS OPERATING	)	CJ-2002-151
COMPANY, and WILLIAM	)	
HENRY DAVIS,	)	
Defendants.	)	

TRANSCRIPT OF PROCEEDINGS

The Honorable Ronald G. Franklin, District Judge, Presiding, in and for Blaine County, Oklahoma.
July 17, 2003

APPEARANCES:

Plaintiff appears pro se

Mr. Peter Brolick
Barrow, Gaddis, Griffith & Grimm
610 S. Main, Suite 300
Tulsa, OK 74119
For Defendants Davis Operating Co. & William Davis

Mr. Glenn Devoll
Gungoll, Jackson, Collins & Box
323 W. Broadway
Enid, OK 73701
For Defts Continental Resources, Inc., Hamm, & Luttrell

Reported by:

Beth M. Malatin, RPR
Registered Professional Reporter
Garfield County Courthouse
Enid, Oklahoma 73701

Transcript Line [ ] Transcript Page ( )

(2)

[1] THE COURT: This will be Olson vs. Continental [2] Resources, Harold Hamm, Tom Luttrell, Davis Operating [3] Company, and Wliilam Davis. There have been -- Why don't we [4] announce our appearances for the record.

[5] MR. DEVOLL: Your Honor, Glenn Devoll on behalf of [6] Continental Resources, Mr. Luttrell, and Mr. Hamm.

[7] MR. BROLICK: Peter Brolick for Davis Operating [8] Company and William H. Davis.

[9] MR. OLSON: Robert Olson pro se.

[10] THE COURT: All right. There are numerous motions [11] pending, including a motion for summary judgment. There is [12] some motions for additional time to respond to some--or to [13] shorten some time on discovery near as I can tell. There is [14] a request by Mr. Olson to continue this matter I think for [15] the purpose of further discovery. I believe that is [16] correct.

[17] MR. OLSON: We are bumping up against the time [18] limits set in the original scheduling order.

[19] THE COURT: Well, what I'm going to deal with [20] first is the motion for summary judgment which has been [21] filed and which has been responded to and which

has been [22] replied to. And the Court has had an opportunity and has[23] reviewed all those materials. And I want to approach it [24] in this manner. There are individuals that are named in [25] this and I must tell you that I must deal with what is in

(3)

[1] the motion for summary judgment and response. I cannot go outside of the record for the purpose of ruling on this. [3] And as you all are aware that requires evidentiary proof to [4] be attached and part of both the motion for summary judgment [5] and the reply. And based on that I will find that the Court [6] has found or will find that there is no evidence that any of [7] the individuals acted outside of their corporate capacity as [8] individuals. And as such as to the individuals I am going [9] to sustain the motion for summary judgment because there is [10] just no proof that they have done any admissable proof, that [11] they have done anything else. The Court cannot speculate on [12] what might be found or what could come up. I have to deal [13] with what is in the motions.

[14] As to Continental Resources, Mr. Olson's claim is [15] based upon his agreement that he had concerning the lease, [16] and I'm not going to -- the '84 lease or the -- whichever [17] lease, the '84 lease I believe. And your claim is [18] contingent upon that particular claim, and I think everybody [19] agrees that if that lease would have gone away years ago [20] your rights would have gone away long ago. Everybody agrees [21] to that. And there was a settlement in the partition suit, [22] which basically as a result of that that lease was released. [23] I don't think there is any dispute as to what happened [24] there. Based on the evidence that has been presented in the [25] motions and in

the response the Court has no other choice in

(4)

[1] this Court's opinion than to sustain that motion because [2] there is no evidence of anything other than a business [3] transaction that was performed by the companies in that [4] respect. So I am going to grant both motions for summary [5] or the motion for summary for all the parties and [6] render judgment accordingly. And I will grant you an [7] exception, Mr. Olson.

[8] MR. OLSON: Will the record, transcript of the [8] record be available ?

[10] THE COURT: Certainly. It's available for [11] purchase by any of you.

[12] MR. OLSON: Okay. And will you also include a [13] statement as to your reasoning as to --

[14] THE COURT: I have included that in my ruling. [15] Yes ?

[16] MR. DEVOLL: That was my question, Judge. Is the [17] Court going to issue an order ?

[18] THE COURT: I'll issue a written order.

[19] MR. BROLICK: Your Honor, we also, Davis Operating [20] company also had a motion for summary judgment on a payment [21] that was made for about $7,000. If those leases were not [22] valid when we made that payment we would ask that we be [23] granted summary judgment on that motion too

[24] THE COURT: That's payments that you made --

[25] MR. BROLICK: After.

(5)

[1] THE COURT: After the fact.

[2] MR. BROLICK: Yes, Your Honor.

[3] THE COURT: I'm going to reserve ruling on that

particular motion until I have an opportunity to look at it. I quite frankly wasn't concentrating on that. I need to go back and look at that. Now what I will do I will give you each an opportunity to provide me a proposed order including findings of fact. I think that is what you are asking for.

MR. OLSON: Yes,sir.

THE COURT: And I'll give you each ten days, each of you, to present to me proposed findings of fact and conclusions of law for purpose of -- I will write my own order however.

MR. DEVOLL: Your Honor, I believe basedon the Court's ruling the balance of the motions that are pending --

THE COURT: Are moot. That would be correct. And I'll give you a written, all parties on that particular one. I apologize for not covering it.

MR. BROLICK: It was a small part of the whole thing I understand. May we be excused ?

THE COURT: You may be excused.

MR. DEVOLL: Thank you, Your Honor.

* * * * *

Certified by
s/ Beth Malatin
Beth m. Malatin, RPR
Registered Professional Reporter

EXERPTS FROM SEVERAL DOCUMENTS TO SHOW PLAINTIFF DID ATTACH EVIDENTIARY MATERIALS TO HIS RESPONSES TO DEFENDANTS' MOTIONS FOR SUMMARY JUDGMENT

Exerpt 1. From the Court of Civil Appeals Opinion in case # 99704 :

IN THE COURT OF CIVIL APPEALS OF THE STATE OF OKLAHOMA DIVISION III

ROBERT OLSON, Plaintiff/ Appellant, vs CONTINENTAL RESOURCES, INC., an Oklahoma corporation, HAROLD HAMM, an individual and President and Chief Executive Officer of Continental Resources, Inc., TOM LUTTRELL, an individual and Vice-President of Continental Resources, Inc., And DAVIS OPERATING COMPANY, an Oklahoma Corporation, WILLIAM H. DAVIS, an individual and President of Davis Operating Company, Defendants/ Appellees	)	Filed Court of Civil Appeals State of Oklahoma Feb 17 2004 Michael S. Richie Clerk # 99704

APPEAL FROM THE DISTRICT COURT OF
BLAINE COUNTY, OKLAHOMA

HONORABLE RONALD G. FRANKLIN,
TRIAL JUDGE

AFFIRMED

Exerpt from page 5, paragraph 8 :

8. Olson objected to the motions for summary judgment, but submitted no evidentiary materials whatsoever. The trial court granted summary judgment to Continental and Davis on Olson's claims, concluding :

> "[T]he old leases have quite probabl[y] expired under the terms of said leases for failure to produce. In addition thereto; it is undisputed or admitted that after the new leases were acquired and [Davis] had acquired a[n] interest in the old leases that a quiet title action was filed in Blaine County, that the Plaintiff was named a party defendant and that the plaintiff asked for no affirmative relief and as a result thereof, a settlement was reached in said case which resulted in the plaintiff being dismissed in that lawsuit and the old leases voluntarily released, thereby extinguishing any interest the plaintiff owned in the leases."

Exerpt 2 from :

CLERK'S CERTIFIED RECORD ON ACCELERATED APPEAL BOOK 1 of 4

From Table of Contents :

1. Petition to Quiet Title and to Recover Real Property and money
2. Plaintiff's Motion to Deny Defendants' Combined Motion to Dismiss and Motion for Sanctions

Plaintiff's Motion to Deny Defendants, Combined Motion to Dismiss and Motion for Sanctions filed by Defendants Davis Operating Company and William H. Davis

3. Plaintiff's Motion for Sanctions
4. Judge's Order denying Defendants' Motions for Dismissal
5. Plaintiff's answer to Counterclaim of Davis Operating Company
6. Plaintiff's Response to Defendants', Davis Operating Company and William H. Davis, Motion for Summary Judgment and Plaintiff's Motion to Deny Defendants' Motions for Summary Judgment

B. Response Exhibits

BOOK 2 of 4

7. Plaintiff's Response to Defendants', Continental Resources, Harold Hamm and Tom Luttrell, Motion for Summary Judgment and Brief in Support Thereof, and Plaintiff's Motion to Deny Defendants' Motion for Summary Judgment

C. Response Exhibits

8. Plaintiff's Reply to Defendants' Continental Resources, Inc., Harold Hamm and Ton Luttreee's Reply Brief in Support of Summary Judgment
9. Plaintiff's Submission of Finding of Facts and Legal Conclusions for the Judgment Order Concerning Summary Judgment

Exerpt 3 from:

IN THE SUPREME COURT OF THE STATE OF OKLAHOMA

ROBERT OLSON, Plaintiff/ Appellant, vs CONTINENTAL RESOURCES, INC., an Oklahoma corporation, HAROLD HAMM, an individual and President and Chief Executive Officer of Continental Resources, Inc., TOM LUTTRELL, an individual and Vice-President of Continental Resources, Inc., And DAVIS OPERATING COMPANY, an Oklahoma Corporation, WILLIAM H. DAVIS, an individual and President of Davis Operating Company, Defendants/ Appellees	)	Filed Approximately March 17, 2004 Case No. # 99704

APPELLEES, CONTINENTAL RESOURCES, INC., HAROLD HAMM, AND TOM LUTTRELL'S ANSWER TO APPELLANT'S PETITION FOR WRIT OF CERTIORARI

Exerpt from page 4, paragraph 2 :

> "The COCA properly followed the law applicable to summary judgments. In the first paragraph of the decision, the COCA states, 'We affirm because Olson submitted no evidentiary materials *establishing a material issue of fact.*' (Opinion, at Paragraph 1, emphasis added) Again in paragraph 10 of it's opinion, the COCA states, 'Olson's statement controverted their assertions, but was not accompanied by *supporting evidentiary materials.*' (Opinion, at Paragraph 10, emphasis added). These statements by the COCA are absolutely correct. Olson did submit some evidentiary materials in his responses to the Appellee's motions. Therefore, the COCA's statement that Olson submitted no evidentiary materials whatsoever is an overstatement. However, the few evidentiary materials that Olson attached to his responses did not establish a genuine dispute regarding any material facts."

Exerpt 4, from :

IN THE SUPREME COURT OF THE STATE OF OKLAHOMA

ROBERT OLSON, Plaintiff/ Appellant, vs CONTINENTAL RESOURCES, INC., an Oklahoma corporation, HAROLD HAMM, an individual and President and Chief Executive Officer of Continental Resources, Inc., TOM LUTTRELL, an individual and Vice-President of Continental Resources, Inc., And DAVIS OPERATING COMPANY, an Oklahoma Corporation, WILLIAM H. DAVIS, an individual and President of Davis Operating Company, Defendants/ Appellees	)	Filed Approximately March 17, 2004 Case No. # 99704

ANSWER OF DAVIS OPERATING COMPANY AND WILLIAM H. DAVIS TO PETITIONER/APPELLANT'S PETITION FOR CERTIORARI

Exerpt 5, from pages 5 and 6

"Petitioner argues that this Court should review the decision of the COCA for three (3)

reasons as summarized below :

1. The COCA mistakenly determined that petitioner submitted no evidentiary materials establishing a material issue of fact in the district court,

2. The mistake in # 1 biased all subsequent legal analysis of the COCA; and

3. The COCA did not test all evidentiary tendered in summary process at the district court for its legal sufficiency.

While Petitioner attached exhibits to his objection to Defendants'/Appellees' Motion for Summary Judgment, the exhibits do not constitute acceptable evidentiary material in support of his objection. (Record at Book 1, tab 6 and Book 2, tab 7). The exhibits include pleadings from Case No. CJ-99-123, between Continental Resources, Inc., and Davis Operating Company, as well as copies of the lease releases from all the working interest owners.

This is Exhibit 0.5, 1, 1a, 1b, 2 and 2A in Plaintiff's PETITION FOR A WRIT OF MANDAMUS Filed on January 18, 2005 with the Oklahoma Supreme Court

Detail Fee Transaction File List
Gungoll, Jackson, Collins & Box, P.C.

Date: 08/19/03 Page: 7

Client	Date	Atty	Cat	Src	H T B R P X C C	Tcd
Rate	Hours		Amount		Ref #	

Continental Resources, Inc. Robert Olson

6308.0008 05/28/03 JR 15 A 3
175.00 0.20 35.00 ARCH
Work on revisions to motion for summary judgment

Continental Resources, Inc. Robert Olson

6308.0008 05/29/03 JR 15 A 3
175.00 1.80 315.00 ARCH
Reviewing, proofing and revising Motion for Summary Judgment and Brief in Support

Continental Resources, Inc. Robert Olson

6308.0008 05/30/03 JR 15 A 3
175.00 0.20 35.00 ARCH
Phone call to Don regarding revisions to motion for summary judgment

Continental Resources, Inc. Robert Olson

6308.0008 05/30/03 JR 15 A 3
175.00 0.40 70.00 ARCH
Work on Don's suggested revision to motion for

summary judgment

Continental Resources, Inc. Robert Olson

6308.0008 05/30/03 JR 15 A 3

175.00 0.30 52.50 ARCH

E-mail to Don regarding proposed revision to motion for summary judgment

Continental Resources, Inc. Robert Olson

6308.0008 05/30/03 JR 15 A 3

175.00 0.30 52.50 ARCH

Finalizing motion for summary judgment for filing

Continental Resources, Inc. Robert Olson

6308.0008 06/03/03 GD 15 A 3

175.00 0.75 131.25 ARCH

Telephone conference with D. Fischbach.

Telephone conference with Court regarding hearing date. E-mail new hearing date to Don.

Continental Resources, Inc. Robert Olson

6308.0008 06/03/03 JR 15 A 3

175.00 0.30 35.00 ARCH

E-mail from Glenn regarding hearing date

Continental Resources, Inc. Robert Olson

6308.0008 06/04/03 JR 15 A 3

175.00 0.20 35.00 ARCH

Reviewing docket setting motion for summary judgment hearing and e-mail to Glenn regarding same

Continental Resources, Inc. Robert Olson

6308.0008 06/04/03 JR 15 A 3

175.00 0.20 35.00 ARCH

Checking case docket on-line for filing of motion for summary judgment by Davis

Continental Resources, Inc. Robert Olson

6308.0008 06/04/03 JR 15 A 3
175.00 0.10 17.50 ARCH

Phone call to Peter Brolick regarding status of their motion for summary judgment and letter from mineral owner to Davis - left message

Continental Resources, Inc. Robert Olson

6308.0008 06/05/03 GD 15 A 3
175.00 0.60 105.00 ARCH

Telephone conference with Judge regarding upcoming docket. Review Status. Telephone conferences with Don Fischbach.

Continental Resources, Inc. Robert Olson

6308.0008 06/05/03 JR 15 A 3
175.00 0.30 52.50 ARCH

Phone call from Peter Brolick regarding summary judgment

Continental Resources, Inc. Robert Olson

6308.0008 06/05/03 JR 15 A 3
175.00 0.30 52.50 ARCH

Conference with Glenn regarding hearings set in case and pending motions

Continental Resources, Inc. Robert Olson

6308.0008 06/05/03 JR 15 A 3
175.00 0.20 35.00 ARCH

Looking up online docket to confirm current hearings set

Continental Resources, Inc. Robert Olson

6308.0008 06/05/03 JR 15 A 3
175.00 0.20 35.00 ARCH

Phone call to Peter Brolick regarding no hearing tomorrow

Continental Resources, Inc. Robert Olson

6308.0008 06/06/03 JR 15 A 3

175.00 0.50 87.50 ARCH

Review Davis' motiom for summary judgment

Continental Resources, Inc. Robert Olson

6308.0008 06/09/03 GD 15 A 3

175.00 1.00 175.00 ARCH

Telephone conference with J. Franklin regarding pending motions. 2 telephone conferences with Olson regarding hearing date for same. Telephone conferences with attorney for Davis. Letter to all regarding new hearing date.

Continental Resources, Inc. Robert Olson

6308.0008 06/09/03 JR 15 A 3

175.00 0.20 35.00 ARCH

Reviewing Davis' motion for bifurcation

Continental Resources, Inc. Robert Olson

6308.0008 06/10/03 GD 15 A 3

175.00 0.30 52.50 ARCH

Telephone conference with D. Fischbach regarding strategy in case.

Continental Resources, Inc. Robert Olson

6308.0008 06/16/03 GD 15 A 3

175.00 0.60 105.00 ARCH

Review Plaintiff' first Set of Interrogatories. Letter to Don Fischbach regarding same.

Phone call to Don regarding reply brief

Continental Resources, Inc. Robert Olson

6308.0008 07/11/03 JR 15 A 3

175.00 2.50 437.50 ARCH

Preparing notebook for Judge of all authorities cited in briefs and highlighted

Continental Resources, Inc. Robert Olson

6308.0008 07/13/03 GD 15 A 3

175.00 1.75 306.25 ARCH

Begin preparation for hearing.

Continental Resources, Inc. Robert Olson

6308.0008 07/13/03 JR 15 A 3

175.00 0.50 87.50 ARCH

Preparation with Glenn for hearing on Thursday

Continental Resources, Inc. Robert Olson

6308.0008 07/16/03 GD 15 A 3

175.00 3.50 612.50 ARCH

Telephone conference with attorney for Range Resources regarding stipulation. Telephpne conference with P. Brolick. Prepare for hearing on Motion for Summary Judgment.

Continental Resources, Inc. Robert Olson

6308.0008 07/17/03 GD 15 A 3

175.00 6.00 1050.00 ARCH

Attend hearing on Motion for Summary Judgment in Watonga. Telephone conference with D. Fischbach regarding same. Telephone conference with Attorney for Davis. Work on findings.

Continental Resources, Inc. Robert Olson

6308.0008 07/17/03 JR 15 A 3

175.00 0.20 35.00 ARCH

Continental Resources, Inc. Robert Olson
6308.0008 09/04/03 JR 15 A 3
175.00 0.30 52.50 ARCH
Phone call to Blaine County District Court Clerk regarding appearance docket and certifying record on accelerated appeal

Continental Resources, Inc. Robert Olson
6308.0008 09/04/03 JR 15 A 3
175.00 0.40 70.00 ARCH
Drafting Exhibit "A" to response to Petition in Error

Continental Resources, Inc. Robert Olson
6308.0008 09/04/03 JR 15 A 3
175.00 0.30 52.50 ARCH
Cover Letter to Court Clerk regarding Supplemental Record on Appeal

Continental Resources, Inc. Robert Olson
6308.0008 09/04/03 JR 15 A 3
175.00 0.20 35.00 ARCH
Conference call with Glenn and Don regarding Motion to Dismiss and Record on Appeal

Continental Resources, Inc. Robert Olson
6308.0008 09/04/03 JR 15 A 3
175.00 0.50 87.50 ARCH
Proofing and revising Entries of Appearance, Response to Petition in Error, Exhibit "A", Statement of the case, Motion to Dismiss, Supplemental Record on Appeal and cover letter to Court Clerk

Continental Resources, Inc. Robert Olson
6308.0008 09/05/03 GD 15 A 3
175.00 0.20 35.00 ARCH
Review Olson's objection to attorney fees. Telephone conference with Judge Franklin regarding docket.

Continental Resources, Inc. Robert Olson

6308.0008 09/05/03 JR 15 A 3

175.00 0.30 52.50 ARCH

Proofing and revising Motion to Dismiss and Response to Petition in Error

Continental Resources, Inc. Robert Olson

6308.0008 09/05/03 JR 15 A 3

175.00 0.20 35.00 ARCH

E-mail to Don and Glenn regarding Motion to Dismiss and Response to Petition in Error

Continental Resources, Inc. Robert Olson

6308.0008 09/05/03 JR 15 A 3

175.00 0.20 35.00 ARCH

Phone call from Court Clerk regarding certification of Supplemental Record complete

Continental Resources, Inc. Robert Olson

6308.0008 09/08/03 GD 15 A 3

175.00 0.75 131.25 ARCH

2 telephone conferences with D. Fischbach regarding hearing on Motion for Attorneys fees. Conference with J. Franklin regarding hearing on same.

Continental Resources, Inc. Robert Olson

Detail Fee Transaction File List

Gungoll, Jackson, Collins & Box, P.C. Page:

Date:

Client	Date	Atty	Cat	Src	H T B R P X C C	Tcd
Rate	Hours		Amount		Ref #	

settlement proceedings on appeal

Continental Resources, Inc. Robert Olson

6308.0008 09/08/03 JR 15 A 3

175.00 0.20 35.00 ARCH

Phone call from Bob regarding Blaine County Court Clerk cannot find our record

Continental Resources, Inc. Robert Olson
6308.0008 09/08/03 JR 15 A 3
175.00 0.20 35.00 ARCH
Phone call to Court Clerk regarding status of our record

Continental Resources, Inc. Robert Olson
6308.0008 09/09/03 GD 15 A 3
175.00 1.00 175.00 ARCH
Telephone conference with Olson regarding hearing on 9/11. Telephone conference with Sartin's office regarding same. Telephone conference with Judge Franklin. Letter to all parties regarding hearing. Telephone conference with D. Fischbach

Continental Resources, Inc. Robert Olson
6308.0008 09/09/03 JR 15 A 3
175.00 0.20 35.00 ARCH
Check status of appeal on OSCN docket

Continental Resources, Inc. Robert Olson
6308.0008 09/09/03 JR 15 A 3
175.00 0.20 35.00 ARCH
E-mail to Glenn and Don regarding filing of "record" by Olson

Continental Resources, Inc. Robert Olson
6308.0008 09/10/03 GD 15 A 3
175.00 0.50 87.50 ARCH
Work on appeal

Continental Resources, Inc. Robert Olson
6308.0008 09/10/03 JR 15 A 3
175.00 0.80 140.00 ARCH
Reviewing Olson's "Record"

Appeal in Supreme Court

Continental Resources, Inc. Robert Olson

A PORTION OF THE

Blaine Counrt Civil Docket

Rebekah Haney (Now Rebekah Martin)

Court Clerk

Case No. : CJ-2002-151

Style of Case :

Robert Olson, Plaintiff

vs.

Continental Resources, Inc., Harold Hamm,
Tom Luttrell and
Davis Operating Company,
William H. Davis, Jr.,
Defendants

Nature of action : Quiet Title

Attorneys :

Pro Se

Sartin, Robert B.
610 South Main, Suite 300
Tulsa, Ok 74119-1226

Devoll, Glenn A.
P.O. Box 1549
323 West Broadway
Enid, Ok 73702-1549

Date	Description
06/02/03	Fil Ent Motion for Summary Judgment & Brief in support of the Defendants, Continental Resources, Inc., Harold Hamm and Tom Luttrell
06/09/03	Fil Ent Davis Operating Company and William

	H. Davis' Motion requesting Bifurcation of Liability and Damages for Discovery and Trial
06/09/03	Fil Ent Davis Operating Company and William H. Davis' Motion for Summary Judgment
06/12/03	CM: Case continued by agreement of parties to July 17, 2003 at 10:00 A.M. RGF
06/17/03	Fil Ent Plaintiff's First Set of Interrogatories for Defendant Davis Operating Co. - Peter Brolick
06/17/03	Fil Ent Plaintiff's First Set of Interrogatories for Defendant Continental Resources, Inc.
06/23/03	Fil Ent Plaintiff's Response to Davis Operating Company and William H. Davis' Motion requesting Bifurcation of Liability and Damages for Discovery and Trial and Plaintiff's Motion to Deny Defendant's Motion
06/27/03	Fil Ent Plaintiff's Response to Defendants', Davis Operating Company and William H. Davis, Motion for Summary Judgment and Plaintiff's Motion to Deny Defendants' Motion for Summary Judgment
06/27/03	Fil Ent Plaintiff's Response to Defendants', Continental Resources, Harold Hamm and Tom Luttrell, Motion for Summary Judgment and Brief in Support Thereof, and PLaintiff's Motion to Deny Defendants' Motion for Summary Judgment
07/02/03	Fil Ent Request to the Court
07/02/03	Fil Ent Plaintiff's Second Set of Discovery Requests

07/02/03	Fil Ent Plaintiff's Second Set of Discovery Requests
07/14/03	Fil Ent Defendants, Continental Resources, Inc.,

	Harold Hamm, and Tom Luttrell's, Reply Brief in Support of Summary Judgment
07/17/03	Fil Ent Letter
07/17/03	Fil Ent Plaintiff's Reply to Defendants, Continental Resources, Inc., Harold Hamm and Tom Luttrell's Reply Brief in Support of Summary Judgment
07/17/03	CM: Parties Present. Motions for Summary Judgment sustained as to Individuals and Continental Resources. Davis Operating Motion for Summary Judgment, ruling reserved. All as per journal Entry. RGF
07/28/03	Fil Ent Defendants, Continental Resources, Inc., Harold Hamm and Tom Luttrell's proposed Findings of Facts and Conclusions of Law
07/28/03	Fil Ent Proposed Findings of Fact and Conclusions of Law of Defendants, Davis Operating Company and William H. Davis
07/28/03	Fil Ent Plaintiff's Submission of Findings of Facts and Legal CVonclusions for the Judgment Order Concerning Summary Judgment
07/28/03	Fil Ent Notice of Appeal
08/11/03	Fil Ent Order
08/15/03	Fil Ent Application for Attornet's Fees
08/15/03	Fil Ent Affidavit of Robert B. Sartin

IN THE DISTRICT COURT OF
BLAINE COUNTY
STATE OF OKLAHOMA

ROBERT OLSON,	)	
Plaintiff,	)	
-vs-	)	Case No.
Continental Resources, Inc.	)	
(et al. {correction by Olson})	)	CJ-02-151
Defendant (s).	)	

TRANSCRIPT OF PROCEEDINGS

The Honorable Ronald G. Franklin, District Judge, Presiding, in and for Blaine County, Oklahoma.

APPEARANCES: June 17, 2004

Plaintiff appears pro se

Mr. Glenn Devoll
Gungoll, Jackson, Collins & Box
P.O. Box 1549
Enid Oklahoma 73701
For Continental Resources

Mr. Robert Sartin
Barrow & Grimm
610 S. Main, Suite 300
Tulsa, Oklahoma 74119
For Davis Operating Company

Reported by:

Beth M. Malatin, RPR
Registered Professional Reporter
Garfield County Courthouse
Enid, Oklahoma 73701

(2)

[1] THE COURT: CJ 2002-151 Olson v. Continental. Who [2] wants to go first ?

[3] MR.DEVOLL: I'd be happy to.

[4] THE COURT: All right.

[5] MR. DEVOLL: As the Court is well aware this case [6] is now over. We filed both an application for pre-appeal [7] attorney fees and costs as well as appeal related attorney [8] fees and costs. The amounts were set out in the [9] applications, but for the Court's benefit and for work that [10] we had done prior to the appeal we had incurred fees of [11] $31,616.25 and costs of $160.63 which makes a pre-appeal [12] total of $31,776.88. Our appeal related fees or costs were [13] 49,415. Bringing the absolute total to $41,191,88.

[14] I filed an affidavit in the case, Your Honor. I have [15] reviewed our time records. The rate charged for both [16] attorneys working on the case was $175 an hour which we [17] believe is a reasonable fee, hourly rate in the community [18] which we work for the type of work that we have done. This [19] is, the Court knows, a somewhat specialized area, oil and [20] gas field. That's our normal hourly rate. As I say I think [21] that's comparable to other attorneys' rate that work in this [22] field in the local community. We are going to stand -- [23] Before I do that, no, I wanted to say one thing to the Court [24] and that is to some degree part of the work that we did was [25] generated or caused as a result of Mr. Olson's somewhat

(3)

[1] unothodox pleadings that were filed in this case

and his [2] actions, which I know is somewhat typical in a pro se case, [3] but nonetheless it required us to respond and to that degree [4] the time expended was somewhat unusual. But it was [5] generated by reason of the fact that Mr. Olson's pleadings [6] were of somewhat unorthodox nature.so we will stand on [7] our affidavit as the evidence in support of our attorney [8] fees request and we would ask the Court to award us, [9] Continental and Mr. Hamm, $41,191.88.

[10] THE COURT: All right. Why don't we just go ahead [11] and let you make your presentation. We'll let Mr. Olson go [12] last and make any inquiry of either one of you.

[13] MR. SARTIN: Thank you.

[14] Your Honor, Robert Sartin here representing the [15] Defendants Davis Operating Company and William H. Davis. We [16] also filed our amended application on April 12th, 2004 [17] seeking attorney fees. Similiar to Continental we have [18] pre-appeal attorney fees and costs and then we also have [19] post appeal attorney fees and costs. I will advise the [20] Court the Supreme Court has entered an order awarding us [21] appeal related attorney fees. Pre-appeal we had attorneys [22] fees totaling $19, 192.50. Pre-appeal we had expenses [23] totaling $111.66 and pre-appeal we had costs totalling [24] $540.77. For a total of $19,844.93. Post appeal or during [25] the appeal we had attorneys fees totaling $9,694. We had

(4)

[1] expenses totaling $196.52. We had costs totaling $414.65. [2] The post appeal or the post summary judgment total is [3] $10,305.17, which makes our total request $30,150.10. [4] Pre-appeal the attorneys rates,

there were two different [5] attorneys that worked on the case. One was an associate [6] with our firm, about a third of his time was at $150 an [7] hour. He had been practicing law at that time about five [8] years. About two thirds of his time was $160 an hour. He [9] had been practicing law about six or seven years at that [10] time. The other time which is actually fairly minimal was [11] spent by me. When the case started my rate was $185 an hour [12] and then some of my time was $195 per hour. I have been [13] practicing sixteen years. I believe those rates to be [14] standard in the community. I believe those to be fair rates [15] based on the expertise involved, the various factors that [16] would be present under Burk. [17] With regard to the appellate attorneys fees those were [18] done by basically two different attorneys, again myself I [19] have about half the time at my rate of $195; another [20] associate with the firm spent probably the other half of the [21] time and he is actually in his second year, his rate was [22] $125 for part of the appeal, and when he was in his first [23] year of practice the rate was $85 an hour. Again I would [24] represent to the Court that I believe those are fair rates [25] for an attorney of his experience in the community and those

(5)

[1] types of things. I would also testify that I believe on the [2] whole the time spent and the costs incurred were fair and [3] reasonable. I'll join Mr. Devoll in my testimony concerning [4] the unusualness of this case. It has been going on for a [5] long, long time. We similarly were forced to respond to a [6] number of different pleadings and they were quite unusual, [7] but we did so and like I say the time was reasonable. Thank [8] you.

[9] THE COURT: I'll note that each of you as [10]

attroneys are considered to be under oath here for these [11] testimonies.

[12] Mr. Olson, do you care to give any testimony or make [13] any statement ?

[14] MR. OLSON: Well, I think both of these costs are [15] excessive, especially Continental Resources costs if you [16] compare it with the costs of the other attorneys. Other [17] that that there is not a whole lot I can say.

[18] THE COURT: Do you have any other evidence you [19] wish to present other that make the statement that you're [20] making ?

[21] MR. OLSON: No, sir.

[22] THE COURT: All right. The Court will take this [23] under advisement. I'm going to hold it until such time as [24] we do or do not get a mandate, then depending on, assuming [25] the mandate comes down I will enter an order that.

(6)

[1] If the mandate, if they decide to rehear it or make some different decision we'll go from there. Okay. Now inasmuch [3] as you're here today on the asset hearing which has been [4] requested I would ask you to raise your right hand.

[5] (Robert Olson sworn at this time.)

[6] THE COURT: I would ask that you adjourn perhaps [7] to the jury room if they are through and proceed.

[8] MR SARTIN: Your Honor, what we'll do is when we [9] finish we will come back and see you and address any issues [10] that we need.

[11] THE COURT: Okay. I will probably be back [12] downstairs by then.

[13] MR. OLSON: I have got one request. On [14] Continental Resources request for attorneys fees there was

a [15] notation for a notebook that they made for you citing cites. [16] Would you be kind enough to give me a copy of that notebook ?

[17] THE COURT: Quite frankly I don't have that [18] anymore. Since the matter is over with I don't retain those [19] things.

[20] MR. OLSON: Do you have a copy of that notebook ?

[21] MR. DEVOLL: We might. We are goingpaperless. [22] That's why I'm hesitating. I don't know if I have got a [23] copy, a hard copy of it any longer. We're destroying files [24] and scanning them in as we go so that's the reason. If I do [25] I mean --

(7)

[1] MR. OLSON: A printout would work. If you have [2] scanned it in your files there is always a printout.

[3] MR DEVOLL: We might work it out. That will take [4] time.

[5] THE COURT: I'm sure there would be some costs [6] involved.

[7] MR DEVOLL: yeah, there would be.

[8] THE COURT: You may be excused.

* * * * *

This Exhibit was presented in conjunction with the hearing on the Recusal of Judge Franklin held before the honorable Ray Dean Linder on June 13, 2005 in Blaine County. It also appears in Plaintiff's Petition for a Writ of Mandamus filed in the Oklahoma Supreme Court on January 18, 2005, # 101682

IN THE DISTRICT COURT OF BLAINE COUNTY
STATE OF OKLAHOMA

ROBERT OLSON,)
)
Plaintiff,)
vs.)
)
CONTINENTAL RESOURCES, INC.,)
an Oklahoma corporation, HAROLD HAM,)
an individual and President and Chief)
Executive Officer of Continental Resources,)
Inc.; TOM LUTTRELL, an individual and)
Vice-President of Continental Resources, Inc.)
DAVIS OPERATING COMPANY,)
an Oklahoma corporation , WILLIAM DAVIS)
an individual and President of Davis)
Operating Company)
)
Defendants) Case No. -
CJ-2002-151

AFFIDAVIT OF JULIA C. RIEMAN

STATE OF OKLAHOMA]
] ss:
COUNTY OF GARFIELD]

I, Julia C. Rieman, of the law firm Gungoll, Jackson, Collins, Box and Devoll,l P.C., being of lawful age, and having first been duly sworn upon my oath, state as follows:

1. I am one of the attorneys for the Defendants, Continental Resources, Inc., Harold Hamm, and Tom Luttrell, in the above-captioned case. I have personal knowledge of the matters herein after referred to, and I am competent to testify as to these matters.

2. I prepared the notebook for the Court that is referenced in billing records of Gungoll, Jackson, Collins, Box & Devoll, P.C. for this case in an entry dated July 11, 2003.

3. The notebook contained *only* complete copies of cases that had been cited by the parties in the briefing on summary judgment and an index that listed the style and citation of the cases contained in the notebook.

4. I highlighted the language in the cases that had been directly quoted in the briefs and I highlighted the language in the cases that was relied on by me to support the legal argument made in the briefs, even though not directly quoted. I did *not* provide any personal commentary, editorial notes, or make any additions or deletions to the copies of the cases.

5. I prepared the notebook on a Friday afternoon, July 11, 2003 as an aid to the Court for a hearing set for Wednesday, July 16, 2003. Because of the time constraints and the number of cases included in the notebook (it took me two and a half hours to prepare a single copy) I only prepared one copy of the notebook; we did not even have a copy for ourselves.

6. I personally delivered the notebook to Judge Ronald G. Franklin. I told him that it was a notebook of the cases cited in our briefs and aside from "hello" and "goodbye" that was the extent of my conversation with the Judge when I delivered the notebook

7. The notebook did *not* include some draft order for the Judge to work from, as claimed by the Plaintiff, Mr. Olson. I included *nothing* in the notebook other than the highlighted copies of the cases cited in the brief and an index that listed the cases.

S\ Julia C. Rieman

Julia C. Rieman

Subscribed and sworn to before me this 5th Day of January, 2005.

My Commission Expires:

Virginia L. Schulz
NOTARY PUBLIC

Stamp:
Virginia L. Schulz
Garfield County
Notary Public
#02003675
Exp. 03/17/06
In and for State of Oklahoma

/jcr
Mitchie/gad/continental/Olson

This Exhibit can be found as Exhibit 5 in Plaintiff's Petition to Quiet Title and to Recover Interests in Real Property and Money and Tort Petition of Sham Legal Process, Interference with a Business Contract and Conversion, Filed as Case CJ-2004-121 on September 7, 2004 in Blaine County, Oklahoma.

Watli #1

ASSIGNMENT OF OVERRIDING ROYALTY

Book 442 Page 415

KNOW ALL MEN BY THESE PRESENTS:

That Vulcan energy Corporation, an Oklahoma corporation and Energy Exchange Corporation, a Delaware Corporation, hereinafter called "Assignors" for and in consideration of the sum of Ten Dollars ($10.00), receipt of which is hereby acknowledged, does assign, sell, transfer, and convey unto Robert W. Olson, hereinafter called "Assignee", an overriding royalty interest of an undivided 1.5% of 8/8ths of all oil, gas, casinghead gas and other liquid hydrocarbons produced, saved and marketed under the terms of those certain oil and gas leases described on Exhibit "A", attached hereto and incorporated herein by reference, and containing 640 acres, more or less, together with the rights incident thereto and the personal property thereon, appurtenant thereto or used in connection therewith.

Said overriding royalty interest shall be free and clear of all development, production, marketing and operating expenses; however, said interest shall bear its proportionate pat of all taxes and transportation charges, if any.

In the event any of said leases described in Exhibit "A" cover and apply to less than the entire fee simple estate in the land described therein, then the overriding royalty interest herein granted shall be reduced to that portion thereof that the interest of the lessor or lessors bears to the

entire fee simple estate In the event Assignor owns less than the entire interest in any of said leases described above, then the overriding royalty interest herein granted shall be reduced to that portion thereof that the working interest of Assignor in such lease bears to the entire working interest in said leases.

The provisions of the assignment shall be binding upon the successors, representatives and assigns of the Assignor and the Assignee.

Executed the 28th day of June, 1984, but effective as to the date of first production from the Matli No. 1 well.

VULCAN ENERGY CORPORATION

(seal)

S/ Michael O'Kane
Michael O'Kane Secretary

BY: S/ David Gustine
David Gustine Vice President

ATTEST:

ENERGY EXCHANGE CORPORATION

(seal)

S/ Michael O'Kane
Michael O'Kane

BY: S/ David Gustine
David Gustine Vice President

Return to: Energy Exchange Corporation
6555 South Lewis Avenue
Tulsa, OK 74136

CORPORATE ACKNOWLEDGEMENT

STATE OF OKLAHOMA)
) ss:
COUNTY OF TULSA)

On this 28th day of June, 1984, before me the undersigned a notary public in and for the county and state aforesaid, personally appeared David Gustine, to me know to be the identical person who subscribed the name of the make thereof to the foregoing instrument as its Vice President, and acknowledged to me that he executed the same as his free and voluntary act and deed, and the free and voluntary act and deed of said corporation, for the uses and purposes set forth.

Give under my hand and seal the day and year above written.

(seal)
My Commission Expires:

April 11 1987 S/J. K. Sandven
Notary Public

CORPORATE ACKNOWLEDGEMENT

STATE OF OKLAHOMA)
) ss:
COUNTY OF TULSA)

On this 28th day of June, 1984, before me the undersigned a notary public in and for the county and state aforesaid, personally appeared David Gustine, to me know to be the identical person who subscribed the name of the make thereof to the foregoing instrument as its Vice President, and acknowledged to me that he executed the same as his free and voluntary act and deed, and the free and voluntary act and deed of said corporation, for the uses and purposes set forth.

Give under my hand and seal the day and year above written.

My Commission Expires:
(seal)
April 11 1987 S/J. K. Sandven
Notary Public

EXHIBIT A

Book 442 Page 417

WELL NAME: Matli # 1

LESSOR:	William M. Gibbons, Trustee of the Property of CHICAGO, ROCK ISLAND AND PACIFIC RAILROAD COMPANY
LESSEE;	Vulcan Energy Corporation
DATED:	January 12, 1984
FILED:	February 9, 1984
RECORDED:	Book 432, Page 179
DESCRIPTION:	All that part of Lessor's right-of-way beginning at Engineers Profile Station 3073+61 and ending 3138+30 located in the NE/4, W/2 of Secion 17, Township 16 North, Range 11 West, Blaine County, Oklahoma, containing 15.99 acres, more or less.

LESSOR:	Julius Lee Matli and Doris R. Matli, husband and wife
LESSEE:	Mac Corporation
DATED:	January 12, 1981
FILED:	May 1, 1981
RECORDED:	Book 368, Page 447
DESCRIPTION:	N/2 NW/4 Section 17-T16N-R11W and W/2 NE/4 LESS railroad right-of-way, AND all that part of the SW/4 lying South and East of the Enid and Anadarko Railroad Compay (now owned by the C.R.I. & P R.R. Co.) over and across land. Blaine County, Oklahoma.

LESSOR:	Lillian Mabel Kershner, a widow
LESSEE:	Mac Corporation
DATED:	January 12, 1981
FILED:	February 20, 1981
RECORDED:	Book 362, Page 396
DESCRIPTION:	All that part of the SW/4 of Section 17, Township 16 North, Range 11 West lying North and West of the Enid and Anadarko Railroad. (Now owned by the C.R.I. & P.R.R. Co.), Blaine County, Oklahoma.

LESSOR: Paul Ariola & Hazel Ariola, husband and wife.
LESSEE: Mac Corporation
DATED: January 12, 1981
FILED: February 18, 1981
RECORDED: Book 362, Page 275
DESCRIPTION: A part of the SW/4 of Section 17, Township 16 North, Range 11 West lying North & West of the right-of-way of the Enid & Anadarko Railroad, more particularly described as follows: Beginning 59 & 1/5 rods N. or the SW corner of said quarter section, thence N. 67 & 4/5 rods, thence East 73 & 3/5 rods, to the W. line of said railroad right-of-way, thence southwesterly along said right-of-way to the place of beginning, containing 15.59 acres, ore or less, Blaine County, Oklahoma.

Exhibit "A"
Book 442 Page 418

LESSOR: Julius Lee Matli & Doris R. Matli, husband and wife
LESSEE: Mac Corporation
DATED: January 12, 1981
FILED: February 18, 1981
RECORDED: Book 362, Page 269
DESCRIPTION: SE/4 Section 17, Township 16 North, Range 11 West, Blaine County, Oklahoma

LESSOR: Mary A. Norcross, A widow
LESSEE: Mac Corporation
DATED: January 13, 1981
FILED: February 18, 1981
RECORDED: Book 362, Page 271
DESCRIPTION: SE/4 Section 17, Township 16 North, Range 11 West, Blaine County, Oklahoma

LESSOR: Betty June Diamond, A single woman
LESSEE: Mac Corporation
DATED: January 12, 1981
FILED: May 1, 1981
RECORDED: Book 368, Page 444
DESCRIPTION: E/2 NE/4 OF Section 17, Township 16 North, Range 11, West, Blaine County, Oklahoma

LESSOR:	Leland A. Diamond and Charlene Diamond, his wife
LESSEE:	Vulcan Energy Corporation
DATED:	February 19, 1981
FILED:	March 13, 1981
RECORDED:	Book 364, Page 354
DESCRIPTION:	E/2 NE/4 OF Section 17, Township 16 North, Range 11 West, Blaine County, Oklahoma

LESSOR:	Julius C. Matli and Mabel Matli, husband and wife
LESSEE:	Mac Corporation
DATED:	January 12, 1981
FILED:	February 18, 1981
RECORDED:	Book 362, Page 267
DESCRIPTION:	S/2 NW/4 of Section 17, Township 16 North, Range 11 West, Blaine County Oklahoma.

County Clerk Seal
Blaine County, OK

3519 Fee 8.00
State of Oklahoma)
Blaine County OK.)SS
Filed for Record on the
3 day of July A.D., 1984
At 10:10 O'Clock AM. And
Recorded in book 442 of MSC
At page 415
S/ Alicia McBev County Clerk
S/ Ana Wilkerson Deputy

This Exhibit can be found as Exhibit 16 in Plaintiff's Petition to Quiet Title and to Recover Interest in Real Property and Money and Tort Petition of Sham Legal Process Interference with a Business Contract and Conversion, Filed as Case CJ-200-121 on September 7, 2004 in Blaine County, Oklahoma.

DIVISION ORDER

Davis Operating Company
2800 Mid-Continent Tower
Tulsa, Ok 74103

Date: November 9, 1999
Well Name: Matli # 1-17
Division Order: #340355

The undersigned, and each of them certify and warrant that they are the legal owners, in the proportions shown below, or royalty interest and other interest in the proceeds from the sale of all the oil (defined to include condensate) and gas produced from the following described property:

> The Davis Operating Company Matli #1-17 UNIT covering all of Section 17, Township16 North, Range 111 West, Blaine Co. Oklahoma, limited to production from the wellbore.

1. Effective 7:00 A.M., September 25, 1999 and until further written notice, you are hereby authorized to give credit as hereinafter shown for all proceeds derived from the sale of oil and gas from said property subject to the condition, covenants and directions hereinafter contained.
2. It is understood that the oil and gas produced from the above described land is being sold under contract, and that said contracts, and any amendments, extensions or renewals thereof, shall govern as to the price to be paid for said products and the times when such payments are to be made.

3. Payments may be made by your checks delivered or mailed to the parties thereto entitled at the addresses given. If the average monthly payment to any party hereunder shall be less than $25.00 you may withhold payment, without interest, and in lieu of the scheduled payments make payments at such time there is an amount in excess of $25.00 to the account.

4. In case of any adverse claim of title as to any interest or interests covered hereby, each of the undersigned affected authorizes you to withhold payment, without obligation to pay interest on the amount so withheld, until such adverse claim is finally determined. If suit is filed in any court affecting title to the above land, the production there from or the proceeds derived from the sale of oil, and or gas, then each of the undersigned affected agrees to indemnify and save you harmless, to the extent only of such party's interest, from any and all liability, loss, cost, damage and expense resulting from such suit.

5. The undersigned agree to notify you of any change of ownership, and no transfer of interest shall be binding upon you until transfer order and the recorded instrument evidencing such transfer or a certified copy thereof, shall be furnished you. You are hereby relieved of any responsibility for determining if and when any of the interest herein above set forth shall or should revert to or be owned by other payments from said interests. The signers hereof whose interests are affected by such money or other payments, if any, agree to give you notice in writing, by registered mail, when any such money or other payments, have been completed or discharged or when any division of interest, other that that set out herein shall, for any reason, become effective, and to execute your transfer orders accordingly, and in the event you do not receive such notice and make any overpayment by reason thereof, you shall be held harmless and hereby are released from ay and all liability, damage or loss which might arise there from.

6. Each of the undersigned expressively ratifies and confirms the validity of the oil, gas and mineral leases and any amendments and supplements thereto, pursuant to which gas is produced from, or allocated to, including all instruments creating, implementing or perpetuating the unit herein described.

7. This division order shall inure to the benefit of not only the parties hereto, but their and your successors and assigns, and this division order shall become valid and binding on each and every owner as soon as signed by such owner, regardless of whether or not all or any of the other owners have so signed.

MATLI #1-17 UNIT
OK3021

Credit To		Net Revenue and Type of Interest	
SC0219	Andrea Matli Scoville	.01041666	RI
WR4050	Jennifer Matli Wright	.01041666	RI
MU0101	David H. Murdock, d/b/a Int'l Mining Co.	.00468460	RI
MA0216	Mable Matli, Life Estate	.02025520	RI
MA0217	Micah Lee Matli	.01041667	RI
KE0320	Lillian Mabel Kerschner	.00520830	RI
AR0130	Paul Ariola and Hazel Ariola	.00456740	RI
MA0222	Julius Lee Matli and Doris Matli	.05022140	RI
DI1200	Leland A. Diamond Revocable Living Tr.	.01139500	RI
DI1100	Betty J. Diamond Revocable Living Tr.	.01012890	RI
MA0223	Monte J. Matli, M.D.	.01041667	RI
NO1010	Clemon E. Norcross, Executor*	.02083330	RI
OL0120	Robert Olson	.01500000	ORI
ED0550	Christopher Edwards	.03657103	ORI
BE0302	Rhoda Bernstein, Marstein Investment	.01107518	WI
BO0137	John P. Boswell	.00780000	WI
DA0275	Davis Operating Company	.76059400	WI
		0.81666657	
	TOTAL	1.0000000	

*This is a term interest for a term of 25 years from and after July 1, 1975. This interest is for said 25-year term only and is not extended by production. At the end of said 25-year term, the interest reverts to Julius Lee Matli and Doris R. Matli, as joint tenants.

WITNESS/ATTEST	OWNERS:
S/ Mary M. Robles 2/8/02	S/ Robert Olson 9022 E. 60th Tulsa, OK 74145

SOCIAL SECURITY OR FEDERAL I.D.#:
449-70-7476

ADDRESS:

9022 E. 60TH

Tulsa, Oklahoma 74145

IMPORTANT: Your correct address and Social Security number or tax account MUST be shown

COPY

This Exhibit can be found as Exhibit 11 in Plaintiff's Petition to Quiet Title and to Recover Interest in Real Property and Money and Tort Petition of Sham Legal Process, Interference with a Business Contract and Conversion, Filed as Case CJ-2004-121 on September 7, 2004 in Blaine County, Oklahoma.

Book 812 Page 676 Blaine County, Oklahoma
FILED
October 20 2000
BY REBEKAH HANEY CT. CLERK
DEPUTY

RELEASE OF OIL AND GAS LEASES

KNOW ALL MEN BY THESE PRESENTS:

That, the undersigned, Continental Resources, Inc. P. O. Box 1032, Enid, OK. 73702, does hereby cancel, release relinquish and surrender to the lessors named on the lease and to their heirs, successors, assigns and legal representatives of said lessors, all right, title; interest in and to the Oil and Gas Lease described as follows on the attached Exhibit "A" hereto attached and made a part thereof.

Executed this 25th Day of September , 2000.

CONTINENTAL RESOURCES, INC.

S/ Tom Luttrell

Tom Luttrell, Vice President-Land

STATE OF OKLAHOMA)
) ss:
COUNTY OF GARFIELD)

Before me, the undersigned, A Notary Public, in and for said county and State, on this 25th day of September, 2000, personally appeared Tom Luttrelll, as Vice President – Land of Continental Resources, Inc., an Oklahoma corporation, on behalf of the corporation.

My Commission Expires:

April 15, 2004

S/ Lisa J. Alwert
Notary Public

(Seal:
Oklahoma Notary Public
Lisa Alwert
Garfield Co.)

Book 812 Page 677

EXHIBIT "A"

Attached to and made a part of Release of Oil & Gas Leases dated September 25, 2000 by and between Continental Resources, Inc. and present lesses of record.

The following described Oil & Gas Leases are located in Blaine County, Oklahoma

Lease Date:	January 12, 1981
Lessor:	Julius C. Matli and Mabel Matli, husband and wife
Lessee:	Mac Corporation
Description:	S/2 NW/4 Section 17-T16N-R11 W.I.M.
Recorded:	Book 362, page 267

Lease Date:	January 12, 1981
Lessor:	Julius Lee Matli and Doris Matli, husband and wife
Lessee	Mac Corporation
Description:	SE/4 Section 17-T16N-R11 W.I.M.
Recoded:	Book 362, page 269

Lease Date:	January 13, 1981
Lessor:	Mary A. Norcross, a widow
Lessee:	Mac Corporation
Description:	SE/4 Section 17-T16N-R11 W.I.M.
Recorded:	Book 362, Page 271

Lease Date:	January 12, 1984
Lessor:	William M. Gibbon, Trustee of the Property Of Chicago, Rock Island and Pacific Company, debtor, solely as Trustee for the Debtor and not as an individual.
Lessee:	Vuclan Energy Corporation
Description:	All that part of Lessor's right-of-way beginning at Engineers Profile Station 3073+30 located in the NE/4 and W/2 of Section 17, Township 26 North, Range 11 W.I.M., Blaine County, Oklahoma, containing 15.99 acres, more or less, as shown on Exhibit A attached hereto and made a part thereof.
Recorded:	Book 432, page 179

Lease Date:	January 12, 1981
Lessor:	Paul Ariola and Hazel Ariola, husband and wife.
Lessee:	Mac Corporation
Description:	A part of the SW/4 of Section 17-T16N-R11 W.I.M. lying North and West of the right-of-way of the Enid and Anadarko Railroad,

more particularly described as follows: beginning 59 ½ rods North of the Southwest corner of the said quarter, thence North 67 4/5 rods, thence East 73 3/5 rods to the West line of said railroad right-of-way, thence Southwesterly along said right-of-way to the place of beginning, containing 15.9 acres, more or less.

Recorded: Book 363, Page 275

Lease Date: January 12, 1981
Lessor: Lillian Mabel Kerschner, a widow
Lessee: Mac Corporation
Description: All that part of the SW/a4 of Section 17-T16N-R11 W.I.M. lying North and West of the Enid and Anadarko Railroad (now owned by the C.R.I.&P. Railroad Company
Recorded: Book 362, page 372

BOOK 812 PAGE 678

Lease Date: February 19,1981
Lessor: Leland A. Diamond and Charlene Diamond, his wife
Lessee: Vulcan Energy Corporation
Description: E/2 NE/4 Section 17-T16N-R11W
Recorded: Book 364, page 384

Lease Date: January 12, 1981
Lessor: Betty June Diamond, a single woman
Lessee: Mac Corporation
Description: E/2 NE/4 Section 17-T16N-R11W
Recorded: Book 368, page 444

Lease Date:	January 12, 1981
Lessor:	Julius Lee Matli and Doris R. Matili, husband and wife
Lessee:	Mac Corporation
Description:	N/2 NW/4 Section 17-T16N-R11 and W/2 NE/4 LESS railroad right-of-way, AND all that part of the SW/4 lying South and East of Railroad right-of-way of the Enid and Anadarko Railroad Company (now owned by the C.R.I.&P R.R. Co.) over and across land.
Recorded:	Book 368, page 447

003480
State of Oklahoma, Blaine Co.)SS Fee: 12.00
2 Day of October A.D. 2000 10:50 P.m. Book, 812 Page 676
Documentary Stamps: $_____// ____
Sharon R. Gales , County Clerk S/Della Wallace Deputy

(Seal;
County Clerk Watonga-Blaine County, Okla)

Return to: Continental Resources, Inc.
P.O.Box 1032
Enid, OK 73702

SETTLEMENT AGREEMENT

MCKNIGHT & GASAWAY
A PROFESSIONAL CORPORATION EST. 1948

201 NORTH GRAND AVENUE
FOURTH FLOOR
P. O. BOX 1108
ENID, OK 73112-1108
TELEPHONE: 580-233-2020
FACSIMILI: 580-233-2099

ATTORNEYS at LAW:
R. L. McKnight
Ralph E. Seals Jr.
Michael Bigheart
David C. Butler
J.W. Meck, Jr. of Counsel
L. W. McKnight (1908-1979)
H. L. Gasaway, Retired

August 20, 2000

Mr. Robert B. Sartin
Barrow, Gaddis, Griffith, & Grimm
610 South Main, Suite 300
Tulsa, OK 74119-1248

RE: Continental Resources, Inc. v . Davis Operating Company, et al; District Court of Blaine Count, State of Oklahoma; Case No. CJ-99-123

Dear Robert:

This letter will set forth the terms of the settlement between my client, Continental Resources, Inc. ("CRI") and your clients, Davis Operating Company ("Davis"), John P. Boswell, Rhoda Bernstein, N. Leonard Fox and Foxco Energy 1986, Ltd. EEC/PP No. 1 (collectively "Davis, et.al"), pertaining to the captioned law suit. The terms of the agreement are as follows:

1. Davis will pay the outstanding indebtedness owed to Hamm & Phillips Service Company.

2. Davis et.al. will withdraw their claims that the oil and gas leases referred to in the Petition on file herein as the Old Leases remain in full force and effect, and will file releases of all their right, title and interest in the Old Leases.

3. CRI will assign to Davis all of CRI's right, title and interest in and to the oil and gas leases referred to in the Petition on file herein as the New Leases insofar and only insofar as the New Leases pertain to the Matli No. 1-17 wellbore. Davis will then assign, undivided interest to John P. Boswell, Rhoda Bernstein, N. Leonard Fox and Foxco Energy 1986, Ltd. – HEC/PP No. 1 (Davis, et.al. will later agree on the interests they will each own in the New Leases as to the Matli No. 1-17 wellbore.)

4. CRI will assign to Davis an undivided 48.4075229% interest in the New Leases exclusive of the rights to the Matli No. 1-17 wellbore. Davis will then assign undivided interests to John P. Boswell, Rhoda Bernstein, N. Leonard Fox and Foxco Energy 1986, Ltd. – EEC/PP No. 1. (Davis, et.al. will later agree on the interests they will each own in the New Leases exclusive of the Matli No. 1-17 wellbore).

5. Davis will reimburse CRI for 48.4075229% of the actual costs CRI incurred in the acquisition of these New Leases. (Davis' actual costs will include the lease bonuses and associated expenses and will be $24,849.43.)

6. If Davis participates, CRI agrees that all water produced from the well that CRI will drill in the Southwest Quarter of the Northeast Quarter (SW/4, N/4) of Section 17-16N-11W.I.M., Blaine County, Oklahoma will be disposed of into Davis' disposal well located in Section 16-16N-11 W.I.M. Blaine, County, Oklahoma . and an agreed upon expense of 17.1/2 cents per barrel, inclusive of the costs to lay the line necessary to transport the water to Davis' disposal well. (If Davis participates in this well and if it is completed as a commercial well, Davis will immediately take steps to lay the line necessary to transport the water to Davis' disposal well so that it will not be necessary to incur expenses related to the hauling of water by truck.)

7. Davis will remain the operator of the Matli No. 1-17 wellbore and CRI will be the operator of the new well that CRI will drill in the Southwest Quarter of the Northeast Quarter (SW/4 NE/4) of Section 17-16N-11 W.I.M. Blaine County, Oklahoma (The Oklahoma Corporation Commission will have jurisdiction to decide who will be he operator of any additional wells that might later be drilled in Section 17-16N-11 W.I.M. Blaine County, Oklahoma)

8. As to the new Well that CRI will drill in theSW/4 NE#4 of Section 17-16N-11 W.I.M., Blaine County, Oklahoma, Davis, et.al. will make their election in accordance witht the Order that will be issued in Oklahoma Corporation Commission Cause CD No. 990-007767. If Davis, et.al. elects to participate, this pooling order will govern operations. Provided, however, Davis is not waving its right to appeal the Order that will be issued in Oklahoma Corporation Commission Cause CD No. 990-007767.

9. CRI agrees that it shall not produce, until after Februaty 1, 2001, the interval in the new well it will drill in the Southwest Quarter of the Northeast Quarter (SW/4,NE/4) of Section 17-16-11 W.I.M. Blaine County, Oklahoma, that is the stratigraphic equivalent to the interval at 9,130 feet to 9,235 feet as identified in the logs for the Pan Am – Matli Unit "B" No. 1 well located in the center of the NW/4 of Section 17-16-11-W.I.M. and at 9,180 feet to 9,275 feet as is identified in the logs for the Amoco-Narcross Unit No. 1 Well located in the center of the SE/4 of Section 17-16N-11 W.I.M.

10. CRI will not oppose Davis seeking a separate allowable for the Matli No. 1-17 Well, if applicable.

11. CRI and Davis, et al. will each dismiss with prejudice the claims each has asserted against the other in the captioned lawsuit.

12. CRI and Davis, et al. will each be responsible for the costs each as incurred in this lawsuit, including their respective attorney fees.

13. CRI and Davis, et al. will prepare, execute and file all instruments required by this letter within ten (10) days from the date of this Letter Agreement as agreed to and accepted by Robert B. Sartin as attorney for Davis, et. al. Time is specifically agreed to be of the essence.

14. I represent that I have the authority to bind CRI to the terms of this Letter Agreement and you represent that you have the authority to bind Davis, et al. to the terms of this Letter Agreement.

15. CRI and Davis, et al. will keep the terms of this Letter Agreement confidential. In this regard, neither CRI nor Davis, et al. nor their respective attorneys nor any other person having access to this Letter Agreement shall disclose in any manner its terms unless with the prior written consent of the other or unless ordered to do so pursuant to the terms or a valid court order. Concerning a valid court order, if CRI, Davis, et al. and/or their respective attorneys become aware of any legal proceeding pursuant to which CRI or Davis, et al. might be required to disclose any of the terms of the Letter Agreement, that party or that party's attorney shall promptly give written notice of any such legal proceeding to the other party.

16. This Letter Agreement is being executed in duplicate and each of the duplicates will constitute an original, but when taken together, will constitute but one Letter Agreement.

If this Letter Agreement correctly sets forth the terms of the settlement between CRI and Davis, et al., Please indicate by executing both originals of the Latter Agreement and return one executed originals to me.

Sincerely,
S/ Ralph E. Seals, Jr.
Ralph E. Seals, Jr.

RES/sf
AGREED TO AND ACCEPTED THIS 18 DAY OF AUGUST, 2,000.

s/ Robert B. Sartin
ROBERT B. SARTIN, as attorney for
DAVIS OPERATING COMPANY,
JOHN P. BOSWELL,
RHODA BERNSTEIN,
N. LEONARD FOX
FOXCO ENERBY 1986, LTD. – EEC/PP NO. 1

Cc: Continental Resources, Inc.
ATTN Mr. Jim Canon
VIA TELEFAX ONLY (580) 548-5182
CRI/davis settlementsartin lt agmt

Matli # 1-17 Well Spreadsheet

Page number Pg 1 (i) left

Line No. Alphabetical Column Listing

	A	B	C	D
1	Matli # 1-17 Well Production and Dollar Values			
2				
3		Gross	Gross	Gross
4		Volumn	Value	Prod
5	Date	MCF		Tax
6	Month/year			
7	Jan-98	1,596.00	$2,765.53	$192.95
8	Feb	25.00	$39.83	$2.78
9	Mar	8,062.00	$14,003.44	$977.03
10	April	1,446.00	$2,892.05	$202.44
11	May	9,584.00	$19,009.22	$1,330.65
12	June	7,936.00	$13,899.64	$972.97
13	July	8,887.00	$18,581.28	$1,300.69
14	Aug	7,446.00	$11,869.41	$830.86
15	Sept	2,538.00	$3,349.50	$234.47
16	Oct	0	0	0
17	Nov	0	0	0
18	Dec	0	0	0
19	Jan-99	0	0	0
20	Feb	0	0	0

Matli # 1-17 Well Spreadsheet

Page number Pg 1 (i) right

Line No. Alphabetical Column Listing

	E	F	G	H
1	Matli # 1-17 Well Production and Dollar Values			
2				
3	Petr	Net	RWO	Company
4	Excise	Value	1.5%	Purchaser
5	Tax		Override	
6			Paid	
7	$2.61	$2,569.97	$ 38.55	Koch
8	$0.04	$ 37.01	$ 0.56	Koch
9	$13.26	$13,013.15	$195.20	Koch
10	$2.75	$2,686.86	$ 40.30	Continental Res
11	$18.06	$17,660.51	$264.91	Continental Res
12	$13.2	$12,913.47	$193.70	Continental Res
13	$17.65	$17,262.94	$258.94	Continental Res
14	$11.28	$11,027.27	$165.41	Continental Res
15	$3.18	$3,111.85	$ 46.68	Continental Res
16	0	0	0	
17	0	0	0	
18	0	0	0	
19	0	0	0	
20	0	0	0	

Matli # 1-17 Well Spreadsheet

Page number Pg 1 (ii) left

Line No. Alphabetical Column Listing

	A	B	C	D
	Matli # 1-17 Well Production and Dollar Values			
		Gross	Gross	Gross
		Volumn	Value	Prod
	Date	MCF		Tax
	Month/year			
21	Mar 1999	0	0	0
22	April	0	0	0
23	May	0	0	0
24	June	0	0	0
25	July	0	0	0
26	Aug	0	0	0
27	Sept	0	0	0
	Sept	Davis reintered Matli # 1-17 well		
28	Oct	255.00	$641.52	$37.35
29	Nov	185.00	$561.54	$35.05
30	Dec	175.00	$352.26	$21.35
31	Jan-00	183.00	$427.14	$26.09
32	Feb	306.00	$787.50	$48.71
33	Mar	6.00	$ 17.36	$1.13

Matli # 1-17 Well Spreadsheet

Page number Pg 1 (ii) Right

Line No. Alphabetical Column Listing

	E	F	G	H
	Matli # 1-17 Well Production and Dollar Values			
	Petr	Net	RWO	Company
	Excise	Value	1.5%	Purchaser
	Tax		Override	
			Paid	
21	0	0	0	
22	0	0	0	
23	0	0	0	
24	0	0	0	
25	0	0	0	
26	0	0	0	
27	0	0	0	
	Sept	Davis reintered Matli # 1-17 well		
28	$0.51	$603.66	$9.05	Aurora Nat Gas
29	$0.48	$526.01	$7.89	Aurora Nat Gas
30	$0.29	$330.62	$4.96	Aurora Nat Gas
31	$0.35	$400.70	$6.01	Aurora Nat Gas
32	$0.66	$738.13	$11.07	Aurora Nat Gas
33	$0.02	$ 16.21	$ 0.24	Aurora Nat Gas

Matli # 1-17 Well Spreadsheet

Page number Pg 1 (iii) left

Line No. Alphabetical Column Listing

	A	B	C	D
	Matli # 1-17 Well Production and Dollar Values			
		Gross	Gross	Gross
		Volumn	Value	Prod
	Date	MCF		Tax
	Month/year			
34	April 2000	4,329.00	$12,460.14	$ 775.90
35	May	8,622.00	$24,111.71	$1,687.82
36	June	7,007.00	$28,056.34	$1,963.94
37	July	8,265.00	$33,097.33	$2,316.81
38	Aug	8,178.00	$28,740.25	$2,011.82
39	Sept	8,972.00	$38,502.57	$2,695.18
	Oct 2 Continental Resources filed release of			
	old leases			
40	Oct	6,746.00	$33,558.98	$2349.13
41	Nov	7,697.00	$32,435.55	$2270.49
42	Dec	5,908.00	$33,435.91	$2340.51
43	Jan 2001	1,139.00	$11,006.63	$ 770.46
44	Feb	1,569.00	$ 9,374.99	$ 656.25
45	Mar	1,527.00	$ 7,244.24	$ 507.10

Matli # 1-17 Well Spreadsheet

Page number Pg 1 (iii) right

Line No. Alphabetical Column Listing

	E	F	G	H
	Matli # 1-17 Well Production and Dollar Values			
	Petr Excise Tax	Net Value	RWO 1.5% Override Paid	Company Purchaser
34	$10.53	$11,673.71	$175.11	Aurora Nat Ga
35	$22.91	$22,400.98	$336.01	MGL, Inc.
36	$26.65	$26,065.75	$390.99	MGL, Inc.
37	$31.44	$30,749.08	$461.24	MGL, Inc.
38	$27.30	$26,701.13	$400.52	MGL, Inc.
39	$36.58	$35,770.81	$536.56	MGL, Inc.
2 Oct 2000		Continental Resources filed release of old leases		
40	$31.88	$31,177.97	$467.67	MGL, Inc.
41	$30.81	$30,134.25	$452.01	MGL, Inc.
42	$31.76	$31,063.64	$465.95	MGL, Inc.
43	$10.46	$10,225.71	$153.39	MGL, Inc.
44	$ 8.91	$ 8,709.83	$130.65	MGL, Inc.
45	$ 6.88	$ 6,730.26	$100.95	MGL, Inc.

Matli # 1-17 Well Spreadsheet

Page number Pg 1 (iv) left

Line No.	Alphabetical Column Listing			
	A	B	C	D
	Matli # 1-17 Well Production and Dollar Values			
		Gross	Gross	Gross
		Volumn	Value	Prod
	Date	MCF		Tax
	Month/year			
46	April 2001	558.00	$2,823.96	$ 197.68
47	May	1.00	$ 4.65	$ 0.33
48	Jan 2001	10.00	$2,029.61	$ 142.07
49	Jan 2001	5,118.00	$44,887.99	$3,142.16
50	Feb	8,074.00	$50,763.84	$3,553.47
51	Mar	9,390.00	$47,343.42	$3,314.04
52	April	9,943.00	$53,270.61	$3,728.94
53	May	11,007.00	$53,236.38	$3,726.55
54	June	13,191.00	$48,113.24	$3,367.93
55	July	12,821.00	$38,787.61	$2,715.13
56	Aug	69.00	$ 213.36	$ 14.97
57	Aug	16,383.00	$47,903.20	$3,353.22
58	Sept	16,893.00	$30,068.70	$2,104.81
59	Oct	18,361.00	$25,686.74	$1,798.07

Matli # 1-17 Well Spreadsheet

Page number Pg 1 (iv) right

Line No. Alphabetical Column Listing

	E	F	G	H
	Matli # 1-17 Well Production and Dollar Values			
	Petr	Net	RWO	Company
	Excise	Value	1.5%	Purchaser
	Tax		Override	
			Paid	
46	$2.68	$ 2,623.60	$ 39.35	MGL, Inc.
47	-	$ 4.32	$ 0.06	MGL, Inc.
48	$1.93	$ 1,885.61	$ 28.28	ONEOK
49	$42.64	$41,703.19	$625.55	ONEOK Fld Serv
50	$48.23	$47,162.14	$707.43	ONEOK Fld Serv
51	$44.98	$43,984.40	$659.77	ONEOK Fld Serv
52	$50.61	$49,491.06	$742.37	ONEOK Fld Serv
53	$50.57	$49,459.26	$741.89	ONEOK Fld Serv
54	$45.71	$44,699.60	$670.49	ONEOK Fld Serv
55	$36.85	$36,035.63	$540.53	ONEOK Fld Serv
56	$0.20	$ 198.22	$ 2.97	ONEOK
57	$45.50	$44,504.48	$667.57	Salt Plains Pipelin
58	$28.57	$27,935.32	$419.03	Cross Tex En.
59	$24.40	$23,864.27	$357.96	Cross Tex En.

Matli # 1-17 Well Spreadsheet

Page number Pg 1 (v) left

Line No. Alphabetical Column Listing

	A	B	C	D
	Matli # 1-17 Well Production and Dollar Values			
		Gross	Gross	Gross
		Volumn	Value	Prod
	Date	MCF		Tax
	Month/year			
60	Nov 2001	17,584.00	$37,607.70	$2,632.54
		Olson's Override not paid		
61	Dec	17,372.00	$38,372.98	$2,686.11
62	Jan 2002	12,301.00	$23,099.18	$1,616.94
63	Feb	10,502.00	$17,835.94	$1,248.52
64	Mar	12,245.00	$25,884.58	$1,811.92
65	April	14,907.00	$42,649.00	$2,985.46
66	May	15,285.00	$42,552.94	$2,978.71
67	June	14,188.00	$36,783.30	$2,574.83
68	July	13,709.00	$34,253.63	$2,397.75
69	Aug	11,531.00	$28,151.01	$1,970.57
70	Sept	10,621.00	$28,663.82	$2,006.47
71	Oct	11,532.00	$34,459.60	$2,386.50
72	Nov	9,984.00	$40,581.36	$2,840.70

Matli # 1-17 Well Spreadsheet

Page number Pg 1 (v) right

Line No. Alphabetical Column Listing

	E	F	G	H
	Matli # 1-17 Well Production and Dollar Values			
	Petr	Net	RWO	Company
	Excise	Value	1.5%	Purchaser
	Tax		Override	
			Not-Paid	
60	$35.73	$34,939.43	$524.09	Cross Tex En
	Olsons Override Not Paid			
61	$36.45	$35,650.42	$534.76	Cross Tex En
62	$21.94	$21,460.30	$321.90	Cross Tex En
63	$16.94	$16,570.48	$248.56	Cross Tex En
64	$24.59	$24,048.07	$360.72	Cross Tex En
65	$40.52	$39,623.39	$594.35	Cross Tex En
66	$40.43	$39,533.80	$593.01	Cross Tex En
67	$34.94	$34,173.53	$512.60	Cross Tex En
68	$32.54	$31,823.34	$477.35	Cross Tex En
69	$26.74	$26,153.70	$392.31	Cross Tex En
70	$27.23	$26,630.12	$399.45	Cross Tex En
71	$32.39	$32,040.71	$480.61	Range Resources
72	$38.55	$37,702.11	$565.53	Continental Gas

Matli # 1-17 Well Spreadsheet

Page number Pg 1 (vi) left

Line No. Alphabetical Column Listing

	A	B	C	D
	Matli # 1-17 Well Production and Dollar Values			
		Gross	Gross	Gross
		Volumn	Value	Prod
	Date	MCF		Tax
	Month/year			
73	Dec	10,149.00	$40,495.26	$2,832.96
74	Jan 2003	8,933.00	$41,393.06	$2,895.77
75	Feb	9,257.00	$48,212.63	$3,372.85
76	Mar	10,724.00	$95,442.79	$6,676.96
77	April	9,222.00	$42,761.00	$2,991.52
78	May	11,365.00	$56,079.85	$3,923.22
79	June	18,390.00	$102,447.79	$7,167.02
80	July	18,724.00	$98,149.37	$6,866.31
81	Aug	18,774.00	$86,261.97	$6,034.69
82	Sept	18,816.00	$90,848.25	$6,355.54
83	Oct	18,376.00	$77,901.00	$5,449.78
84	Nov	14,467.00	$60,792.19	$4,252.89
85	Dec	15,404.00	$69,714.69	$4,877.08
86	Jan 2004	13,890.00	$79,957.00	$5,593.61

Matli # 1-17 Well Spreadsheet

Page number Pg 1 (vi) right

Line No. Alphabetical Column Listing

	E	F	G	H
	Matli # 1-17 Well Production and Dollar Values			
	Petr	Net	RWO	Company
	Excise	Value	1.5%	Purchaser
	Tax		Override	
			Not-Paid	
73	$38.45	$37,623.85	$564.36	Continental Gas
74	$39.30	$38,457.99	$576.87	Continental Gas
75	$45.77	$44,794.01	$671.91	Continental Gas
76	$90.62	$88,675.21	$1,330.13	Continental Gas
77	$40.60	$39,729.67	$595.95	Continental Gas
78	$53.24	$52,103.39	$781.55	Continental Gas
79	$97.27	$95,183.50	$1,427.75	Continental Gas
80	$93.19	$91,189.87	$1,367.85	Continental Gas
81	$81.90	$80,145.38	$1,202.18	Continental Gas
82	$86.25	$84,406.46	$1,266.10	Continental Gas
83	$73.96	$72,377.26	$1,085.66	Continental Gas
84	$57.72	$56,481.58	$847.22	Continental Gas
85	$66.19	$64,771.42	$971.57	Continental Gas
86	$75.91	$74,287.48	$1,114.31	Continental Gas

Matli # 1-17 Well Spreadsheet

Page number Pg 2 (a) left

Line No. OLSON'S OVERRIDE NOT PAID Alphabetical Column Listing

	A	B	C	D
1	Matli # 1-17 Well Production and Dollar Values			
2				
3		Gross	Gross	Gross
4		Volumn	Value	Prod
5	Date	MCF		Tax
6	Month/year			
		Olson's Override not paid		
7	Dec	17,372.00	$38,372.98	$2,686.11
8	Jan 2002	12,301.00	$23,099.18	$1,616.94
9	Feb	10,502.00	$17,835.94	$1,248.52
10	Mar	12,245.00	$25,884.58	$1,811.92
11	April	14,907.00	$42,649.00	$2,985.46
12	May	15,285.00	$42,552.94	$2,978.71
13	June	14,188.00	$36,783.30	$2,574.83
14	July	13,709.00	$34,253.63	$2,397.75
15	Aug	11,531.00	$28,151.01	$1,970.57
16	Sept	10,621.00	$28,663.82	$2,006.47
17	Oct	11,532.00	$34,459.60	$2,386.50
18	Nov	9,984.00	$40,581.36	$2,840.70

Matli # 1-17 Well Spreadsheet

Page number Pg 2 (a) right

Line No. Alphabetical Column Listing

	E	F	G	H
1	Matli # 1-17 Well Production and Dollar Values			
2				
3	Petr	Net	RWO	Company
4	Excise	Value	1.5%	Purchaser
5	Tax		Override	
6			Not-Paid	
		Matli # 1-17 Well		
	Olsons Override Not Paid			
7	$36.45	$35,650.42	$534.76	Cross Tex En
8	$21.94	$21,460.30	$321.90	Cross Tex En
9	$16.94	$16,570.48	$248.56	Cross Tex En
10	$24.59	$24,048.07	$360.72	Cross Tex En
11	$40.52	$39,623.39	$594.35	Cross Tex En
12	$40.43	$39,533.80	$593.01	Cross Tex En
13	$34.94	$34,173.53	$512.60	Cross Tex En
14	$32.54	$31,823.34	$477.35	Cross Tex En
15	$26.74	$26,153.70	$392.31	Cross Tex En
16	$27.23	$26,630.12	$399.45	Cross Tex En
17	$32.39	$32,040.71	$480.61	Range Resources
18	$38.55	$37,702.11	$565.53	Continental Gas

Matli # 1-17 Well Spreadsheet

Page number Pg 2 (b) left

Line No. Alphabetical Column Listing

	A	B	C	D
	Matli # 1-17 Well Production and Dollar Values			
		Gross	Gross	Gross
		Volumn	Value	Prod
	Date	MCF		Tax
	Month/year			
19	Dec	10,149.00	$40,495.26	$2,832.96
20	Jan 2003	8,933.00	$41,393.06	$2,895.77
21	Feb	9,257.00	$48,212.63	$3,372.85
22	Mar	10,724.00	$95,442.79	$6,676.96
23	April	9,222.00	$42,761.00	$2,991.52
24	May	11,365.00	$56,079.85	$3,923.22
25	June	18,390.00	$102,447.79	$7,167.02
25	July	18,724.00	$98,149.37	$6,866.31
27	Aug	18,774.00	$86,261.97	$6,034.69
28	Sept	18,816.00	$90,848.25	$6,355.54
29	Oct	18,376.00	$77,901.00	$5,449.78
30	Nov	14,467.00	$60,792.19	$4,252.89
31	Dec	15,404.00	$69,714.69	$4,877.08
32	Jan 2004	13,890.00	$79,957.00	$5,593.61

Matli # 1-17 Well Spreadsheet

Page number Pg 2 (b) right

Line No. Alphabetical Column Listing

	E	F	G	H
	Matli # 1-17 Well Production and Dollar Values			
	Petr	Net	RWO	Company
	Excise	Value	1.5%	Purchaser
	Tax		Override	
			Not-Paid	
19	$38.45	$37,623.85	$564.36	Continental Gas
20	$39.30	$38,457.99	$576.87	Continental Gas
21	$45.77	$44,794.01	$671.91	Continental Gas
22	$90.62	$88,675.21	$1,330.13	Continental Gas
23	$40.60	$39,729.67	$595.95	Continental Gas
24	$53.24	$52,103.39	$781.55	Continental Gas
25	$97.27	$95,183.50	$1,427.75	Continental Gas
25	$93.19	$91,189.87	$1,367.85	Continental Gas
27	$81.90	$80,145.38	$1,202.18	Continental Gas
28	$86.25	$84,406.46	$1,26[illegible]10	Continental Gas
29	$73.96	$72,377.26	$1,0[illegible]56	Continental Gas
30	$57.72	$56,481.58	$84[illegible].22	Continental Gas
31	$66.19	$64,771.42	$971.57	Continental Gas
32	$75.91	$74,287.48	$1,114.31	Continental Gas

Matli # 2-17 Well Spreadsheet

Page number Pg 2 (c) left

Line No. Alphabetical Column Listing

	A	B	C	D
	Matli # 2-17 Well Production and Dollar Values			
		Gross	Gross	Gross
		Volumn	Value	Prod
	Date	MCF		Tax
	Month/year			
33	Jan 2003	0	0	0
34	Feb	0	0	0
35	Mar	0	0	0
36	April	0	0	0
37	May	1,629.00	$ 8,858.01	$ 583.65
38	June	6,911.00	$36,418.92	$2,395.96
39	July	8,384.00	$41,253.03	$2,700.27
40	Aug	6,396.00	$27,656.64	$1,792.95
41	Sept	6,376.00	$29,334.74	$1,910.84
42	Oct	6,743.00	$27,815.21	$1,796.91
43	Nov	5,851.00	$23,600.97	$1,521.68
44	Dec	6,190.00	$26,485.07	$1,716.01
45	Jan 2004	5,537.00	$30,561.95	$2,016.28

Matli # 2-17 Well Spreadsheet

Page number Pg 2 (c) right

Line No. Alphabetical Column Listing

	E	F	G	H
	Matli # ~~2~~ 2-17 Well Production and Dollar Values			
	Petr	Net	RWO	Company
	Excise	Value	1.5%	Purchaser
	Tax		Override	
			Not-Paid	
33	0	0	0	
34	0	0	0	
35	0	0	0	
36	0	0	0	
37	7.92	$ 8,266.44	$124.00	ENOGEX, inc.
38	32.52	$33,990.44	$509.86	ENOGEX, inc.
39	36.65	$38,516.11	$577.74	ENOGEX, inc.
40	24.33	$25,839.36	$387.59	ENOGEX, inc.
41	25.93	$27,397.97	$410.97	ENOGEX, inc.
42	24.39	$25,993.91	$389.91	
43	20.65	$22,058.64	$330.88	
44	23.29	$24,745.77	$371.19	
45	27.36	$28,518.31	$427.77	

Matli # 317 Well Spreadsheet

Page number Pg 2 (d) left

Line No. Alphabetical Column Listing

	A	B	C	D
	Matli # 3 17 Well Production and Dollar Values			
		Gross	Gross	Gross
		Volumn	Value	Prod
	Date	MCF		Tax
	Month/year			
46	Jan 2003	0	0	0
47	Feb	0	0	0
48	Mar	75.00	$ 679.33	$ 47.55
49	April	11,366.00	$52,631.22	$3,684.19
50	May	13,976.00	$68,880.52	$4,821.64
51	June	12,617.00	$70,512.59	$4,935.88
52	July	17,182.00	$90,354.25	$6,324.80
53	Aug	16,541.00	$76,242.84	$5,337 00
54	Sept	17,324.00	$83,908.96	$5,873.63
55	Oct	19,168.00	$82,023.79	$5,741.67
56	Nov	19,252.00	$81,770.79	$5,723.96
57	Dec	19,525.00	$89,164.03	$6,241.48
58	Jan 2004	19,297.00	$111,953.90	$7,836.77

Matli # 3-17 Well Spreadsheet

Page number Pg 2 (d) right

Line No. Alphabetical Column Listing

	E	F	G	H
	Matli # 3-17 Well Production and Dollar Values			
	Petr	Net	RWO	Company
	Excise	Value	1.5%	Purchaser
	Tax		Override	
			Not-Paid	
46	0	0	0	
47	0	0	0	
48	$0.65	631.13	$ 9.47	Continental Gas
49	$50.00	48,897.03	$ 733.46	Continental Gas
50	$65.44	63,993.44	$ 959.90	Continental Gas
51	$66.99	65,509.72	$ 982.65	Continental Gas
52	$85.84	83,943.61	$1,259.15	Continental Gas
53	$72.43	70,833.41	$1,062.50	Continental Gas
54	$79.71	77,955.62	$1,169.33	Continental Gas
55	$77.92	76,204.20	$1,143.06	Continental Gas
56	$77.68	75,969.15	$1,139.54	Continental Gas
57	$84.71	82,837.84	$1,242.57	Continental Gas
58	$106.36	104,010.77	$1,560.16	Continental Gas
	Total $34,076.25 not paid to this date			

IN THE DISTRICT COURT OF BLAINE COUNTY STATE OF OKLAHOMA

ROBERT OLSON,	)
Plaintiff,	)
Vs.	)
	) Blaine County,
CONTINENTAL RESOURCES, INC.,	) Oklahoma
An Oklahoma Corporation, Harold Hamm,	) Filed
An individual and President and Chief	) August 11,
Executive Office; TOM LUTTRELL, an	) 2003
Individual and Vice President of Continental,	) s\Rebekah
Resources, Inc.,	) Haney, ct
	) clerk
	) Deputy
And	)
	)
DAVIS OPERATING COMPANY, an	) CJ-2002-151
Oklahoma Corporation, WILLIAM H.	)
DAVIS, an individual and President of	)
Davis Operating Company,	)
Defendants	)

ORDER

FINDINGS OF FACT

The court after reviewing the parties motions for summary judgment, the objections thereto, and the replies to the objection thereto. Based on the undisputed facts, the court finds the following facts to be undisputed based on admissible evidence as contained as the motions for summary judgments the objections to the motions for the summary judgments, the briefs filed by the parties and any replies thereto, as well as those facts which the parties admit are undisputed.

1. The leases which are a basis for the plaintiff's action were executed in 1981 with a primary term of 3 hears and 1984 with a primary term of 1 year and as long thereafter as oil and gas is produced (old leases).

2. On June 28, 1984, plaintiff obtained a 1.5% overriding royalty interest which did not contain an extension and renewal clause on Section 17 (17) Township sixteen ((16) North, Range Eleven (11) W.I.M. Blaine County, Oklahoma, property subject to the old leases. In September of 1993, Continental Resources, Inc. (CRI) acquired an undivided interest of approximately 52% in the oil leases and 52% working interest in the Matli #1-17 well in Section 17, which had commenced producing commercial quantities in July 1994, and extended those leases in their secondary terms. By September 1998, The Matli well #1-17 was not producing in paying quantities and in March 1999, CRI set a bridge plug and removed the tubing from the said well, rendering it physically incapable of producing in paying quantities.

3. In September 1998, CRI had entered into a farm out agreement with Marshall Oil Corporation; that Marshall was to drill a second well in Section 17, however Marshall did not perform and in January 1999, Marshall acknowledged to CRI, that its failure to perform under the farm out agreement probably resulted in the oil leases expiring by their own terms and Marshall then offered to acquire new leases. In February 1999, CRI notified the working interest that it recommended that the Matli well #1-17 be plugged. Thomas Hill Puff ("Puff") declined to consent to the plugging of the well and in May of 1999, CRI assigned its working interest in the Matli#1-17 well to Hill Royalty Company and retained its record ownership of 52% of the old leases, exclusive of the Matli well bore. In

June 1999, Hill Royalty Company assigned all of its interest in the old leases to Davis Operating Company (DOC)

4. In August, 1999 CRI performed an inspection and discovered there had been no work performed on the well and that no steps to drill a new well had been taken.

5. On September 2, 1999, CRI advised DOC in writing that in their opinion the old leases had expired on their own terms and CRI would proceed to acquire new leases and demanded that DOC release any right title and or interest in the old leases, which DOC declined to do. In September of 1999, CRI acquired new leases in Section 17 and DOC commenced recompletion operations of the Matli #1-17.

6. In October, 1999, CRI filed its petition to quiet title in the District Court of Blaine County No CJ-99-123, naming DOC and Robert Olsen (Olsen) as defendants. At a later time a third party petition was filed against Puff dba Hill Royalty Company.

7. On July 27, 2000, the parties attended a court ordered settlement conference in which Puff, CRI and DOC reached a settlement of all the outstanding issues in CJ-99-123 and pursuant to the settlement on July 28, 2000, CRI dismissed Olsen from said lawsuit. On October 10, 2000, pursuant to the settlement, DOC filed releases of the old leases and were required to provide new consideration for an interest in the new leases.

8. Olsen had not asked for any affirmative relief in CJ-99-123 Blaine County, prior to his being dismissed from the case.

9. The plaintiff's rights arise solely from the old leases and remain only through the term of the old leases, which provided that the lease lessee had the right to unilaterally terminate a lease by a voluntary release thereof.

10. Tom Luttrell, Harold Hamm and William H. Davis do not claim any right title or interest in the old or new leases and have acted only in their capacity as corporate officers. That each of the corporations named as defendants herein, are corporations in good standing, that DOC by the release of the interest on the old lease had it selling of the interest in the new lease, no longer claims any right title and or interest in the new leases.

11. Prior to plaintiffs filing his objection to summary judgment and other responses no request or extension of time to respond to the motion for summary judgments was made by the plaintiff.

12. DOC paid to the plaintiff the sum of $7,957.93 after the old leases had been released.

14. DOC has not been reimbursed for the sums paid to the plaintiff after the release of the old releases.

CONCLUSIONS OF LAW

The court will only consider the affidavits and other materials that contain facts that would be admissible in evidence and will not consider allegations and denials contained in the plaintiff's pleadings. Bray vs. Thomas Energy Systems, Inc. 909 P2 91 (1995). Plaintiff did not file an affidavit attesting to the need of further discovery, but only made the request in his response and objection to defendant's motion for summary judgment and is not

entitled to conduct further discovery, but only made the request in his response and objection to defendant's motion for summary judgment and is not entitled to conduct further discovery prior to the ruling on the summary judgment, Bittle vs. Oklahoma City University 6. P3 509 (2000) Pursuant to Rule 13 of the District Courts, a summary judgment ruling must be made on the record actually presented by the litigants, not on a record potentially possible and although the allegations of the pleadings standing alone may raise an issue of material fact, summary judgment is not to be denied if other documentation pertinent to the motions, show absence of such issue, Bittle vs. Oklahoma City University 6 P3 509.

Based on the admissible evidence it is undisputed that the old leases have quite probable expired under the terms of said leases for failure to produce. In addition thereto; it is undisputed or admitted that after the new leases were acquired and DOC had acquired a interest in the old leases that a quite title action was filed in Blaine County, that the plaintiff was named a party defendant ant that the plaintiff asked for no affirmative relief and as a result thereof, a settlement was reached in said case which resulted in the plaintiff being dismissed in that lawsuit and the old leases voluntarily released, thereby extinguishing any interest the plaintiff owned in the leases. The court takes judicial notice of the pleadings in CJ-99-123 Blaine County, Oklahoma.

The evidence is further undisputed or admitted that DOC after the termination of the Plaintiff's interest, paid the plaintiff the sum of $957.93 for royalty interest payments from December, 2000 to November 2001.

That the defendants Harold Hamm, Tom Luttrell and William H. Davis were acting in their capacity as officers of CRI and DOC and have no claims in the lease and there is no admissible evidence presented showing a conspiracy by the individuals to defraud the plaintiff in any respect.

The admissible evidence also shows that CRI and DOC did not take any actions with intention of defrauding or injuring the plaintiff, nor conspired to cause injury to the plaintiffs.

The plaintiff has no interest in the new leases and does not have any standing to quiet title.

It is therefore ordered adjudged and decreed, that the defendant , CRI, Harold Hamm, Tom Luttrell and William H. Davis' motions for summary judgment are sustained and judgment is granted in their favor against the plaintiff. The defendant DOC's motion for summary judgment is granted and judgment is rendered in favor of DOC and against the plaintiff in the amount of $7,957.93. All defendants are awarded their costs.

S/ Ronald G. Franklin
RONALD G. FRANKLIN
DISTRICT JUDGE

316 S.W.2d 915 (Cite as: 316 S.W.2d 915)
Court of Civil Appeals of Texas, San Antonio.

J. W. CAIN, et al., Appellants,
v.
Ethel Schallert NEUMANN et al., Appellees

No. 13325

June 11, 1958.
On Rehearing July 30, 1958.
On Second Motion for Rehearing Sept. 10, 1958

Exerpt:

Production in paying quantities on the 3,100-acre tract was the event which *919 the lease states will continue it in force. Commencing in 1934, a ton of salt was produced every five minutes of the day. At the time of trial, more than three and a half million pounds, or sixty railroad carloads per day were being produced. Columbia Southern, in 1933, agreed with the Schallerts to pay $300 per month as royalty and Schallerts agreed that such payments could be made in lieu of actual production. Those royalty payments never ceased. At the very moment, on Ostober 31, 1953, that Schallerts and Columbia Southern say that the fee reverted, brine was flowing unabated through the pipeline in precisely the same manner as it had for eighteen years, except that the amount of production had increased. At the time of trial

it had not stopped. The event which would determine the fee to the lands covered by the 1918 lease was the cessation of production 'in paying quantities thereon.' Production 'in paying quantities thereon' has not ceased. In Cole v. Philadelphia Company, 345 Pa. 315, 26 A.2d 920, 923, the Court held that a surrender of an old lease in exchange for a new lease when there was production under the terms of the old lease, did not destroy the rights of others claiming under the old lease. 'Would anyone contend that a lessee could be heard to say, even in writing, that he surrendered a lease while he at the same time held the premises and continued to operate? It is but an example of the ancient phrase that actions often speak so loudly that the words of the actor cannot be heard. The conduct of this lessee was absolutely inconsistent with either an actual surrender or an abandonment.' In other words, even if there were an express surrender clause, non-production must be the fact, not a mere recital.

Stripped of these distracting arguments, we find that the 1918 base lease declares that continued production of a mineral, without regard to who owns the mineral, on the 3,100-acre tract maintains the base lease in force. Salt, an admitted mineral, has been continuously produced on the 3,100-acre tract. The base lease is therefore continued in force. Appellants, before the 1953 lease, owned property rights under the clear terms of the 1918 lease. They did not surrender that ownership, and so long as production continued, nobody else could.

PHILLIPS PETROLEUM CO.

v.

TAYLOR et al.

Circuit Court of Appeals, Fifth Circuit # 9421

Jan. 14, 1941.

Cite as: 116 F.2d 994, U.S. Supreme Court, 313 U.S. 565

Exerpt page 995 and 996

Page 995

[1][2][3][4] It is well settled that, under the lease in the case, the assignee impliedly covenanted to protect the lessor from drainage. [FN3] To determine whether or not the assignor also has the protection of an implied covenant, the same rules govern as are applied to covenants in contracts between the lessor and lessee; [FN4] and the obligations between the assignor and assignee are what the contract of assignment makes them, in the light of the provisions of the lease assigned. [FN5] These rules are to be applied to the facts of this case and to be considered in the light of the law of Texas, that an overriding royalty, created by assignment, is an interest in real estate regarded as a covenant running with the land as between the assignor and assignee, and enforceable by the assignor against the assignee. Emerson v. Little Six Oil Co., 5 Cir., 3 F.2d 265; Colquitt v. Eureka Producing Co., Tex. Comm.App., 63 S.W.2d 1018, 67 S.W.2d 224; Holiday v. Erwin, Tex. Civ. App., 85 S.W.2d 355

Page 995 and Page 996

[6][7][8][9] The law requires an assignee who stands in the

shoes of his lessee-assignor, to do that which an ordinary prudent operator would do under the circumstances, having due regard for the interests of all parties. [FN7] When a mineral lease is purchased, the lessee or his assignee must do one or more of three things: He must drill, pay rent, or forfeit *996 the lease. If he drills and finds oil, he neither rents nor forfeits, but he pays the royalty, and he must develop the property diligently; if he does not drill, but retains the lease, he must pay rental; if he neither drills nor pays rent, he must forfeit his lease. For the protection of the lessor, the law imposes upon the assignee the duty, when he drills, to exercise reasonable prudence solely in order to prevent loss to the lessor of that which is rightfully his, be the loss by drainage or refusal to capture or surrender the lease. This duty, where not expressed, is imposed by implied covenant. Applying the same principle to the assignor and assignee in this case, it seems entirely reasonable to impose a similiar duty.

Page 996

The conclusion reached by us can prejudice no one, since the implied covenant in favor of the lessor already has placed the onus of drilling or compensating for the failure to do so, and this obligation is not increased by our holding. Under any other holding, the assignor, his consideration consisting of royalty alone, might be seriously prejudiced by deprivation of his only enforcement privilege.

The petition for rehearing is denied.

IN THE DISTRICT COURT IN AND FOR
TULSA COUNTY
STATE OF OKLAHOMA

DR. ROBERT OLSON, Plaintiff, vs GLEN A. DEVOLL, JULIA C. RIEMAN, THE LAW FIRM GUNGOLL, JACKSON, COLLINS, BOX & DEVOLL, P.C. and JUDGE RONALD G. FRANKLIN, Defendants.	)	DISTRICT COURT F I L E D SEP - 7 2005 SALLY HOWE SMITH COURT CLERK STATE OF OKLA. TULSA COUNTY No. CJ 2005 04925 Judge McAllister

DEFENDANTS' MOTION TO DISMISS
AND BRIEF

Pursuant to 12 O.S. §2012(B)(6), Defenadnts Glen A. Devoll, Julia C. Rieman, and the Law Firm Gungoll, Jackson, Collins, Box & Devoll, P.C. (collectively hereinafter "Law Firm") move the Court for an order dismissing the Petition for improper venue and failure to state a claim.

Introduction

Plaintiff, a geologist who appears pre se,[1] filed suit because he lost an earlier suit, Case CJ-02-00151 in Blaine County. Plaintiff is suing the attorneys who represented Plaintiff's litigation adversaries in the Blaine County suit

1. Petition, p.3 pp 1; p. 17.

and the Judge who granted summary judgment against Plaintiff.

Plaintiff claims the Defendant Law Firm presented arguments and case law authorities to the district court in the Blaine County case which were "false" and caused Plaintiff to lose the case. Plaintiff was particularly piqued because the Law Firm gave the Court a notebook containing copies of reported cases cited in its motion f r summary judgment.

Exerpt : page 5 , starting paragraph 1:

Copies of court opinions presented in a notebook to the Court are not "fraudulent." Exhibit 10 attached to the Petition is an Affidavit of Julia C. Rieman. The Affidavit states that Ms. Rieman prepared a notebook containing cases directly quoted in briefs filed in the Blaine County case, to assist the Court in deciding whether or not to grant Defendants' summary judgment motion. Paragraph 5, cited as support for Plaintiff's fraud allegation states "I prepared the notebook on a Friday afternoon, July 11, 2003 as an aid to the Court for a hearing set for Wednesday, July 16, 2003." (Ex 10-2 to the complaint, paragraph 5) All that was included in the notebook were copies of the cases cited in the brief and an index that listed the cases. Id. at Paragraph 7.

Obviously, legal authorities are not "false" or "fraudulent." The cases are publicly available to anyone who cares to read them. Providing copies expedites the Court's consideration of a motion, because the Court does not have to spend the time looking up the cases for its review. This common courtesy and practice among trial

lawyers does not rise to the level of actionable fraud.[2] Plaintiff has not shown, and cannot show a false representation, made as a positive assertation which is either known to be false, or made recklessly without knowledge of the truth, with the intention that it be acted on, and which is relied on by the plaintiff to his detriment. Gay v. Akin, 1988 OK 150, 766 P.2d 985, 990. The Petition fails to state a claim and should be dismissed.

Exerpt page 17, signature:

Respectfully submitted,
FELDMAN, FRANDEN, WOODWARD,
FARRIS & BOUDREAUX

by \ Paula J. Quillin

Joseph R. Farris, OBA # 2835
Paula J. Quillin, OBA # 7368
525 South Main, Suite 1000
Tulsa, Oklahoma 74103
918/583-7129

Attorneys for Defendants Devoll, Rieman, and the Law Firm of Gungoll, Jackson, Collins, Box & Devoll, P.C.

---

2. Plaintiff also suggest that the Defendants made a "misleading statement" to the court in moving for summary judgment when they quoted only a portion of a lease provision in the text of their motion for summary judgment. (Petition, pp. 12 and 13). However, the portion of the motion for summary judgment cited in Plaintiff's Petition shows that copies of the leases were attached to the motion for summary judgment so it is impossible for Defendants to have had an intent to mislead the court as to the language of the leases.

FILED
2 4 2006
OFFICE OF THE CLERK

No. **05-1057**

IN THE

Supreme Court of the United States

In re

ROBERT OLSON,

Petitioner,

vs

THE HONORABLE JUDGE
RONALD G. FRANKLIN,

Respondent.

Petition for Writ of Mandamus
Judicial Disqualification
From Oklahoma Supreme Court #101682

PETITION FOR AN EXTRAORDINARY WRIT OF MANDAMUS

SUPPLEMENTAL BRIEF

Petitioner, Pro Se	Opposing Counsel
Robert Olson	Glenn A. Devoll
9022 E 60th St	Firm: Gungoll, Jackson,
Tulsa, Oklahoma	Collins, Box & Devoll, P.C.
74145	P.O.Box 1549
918 252 1987	Enid, Oklahoma 73702
	580 234 0436

QUESTIONS

1. Oklahoma District Court Rule 13; conflict with Fourteenth Amendment of the United States Constitution.

2. Pro Se Practice and Oklahoma Supreme Court imposition of Oklahoma Supreme Court Rule 1.36; conflict with Fourteenth Amendent of the United States Constitution.

3. Fiduciary Duty; New Law; Recognition of Third Party Beneficiary positions of royalty and override in the participation agreements of an oil and gas deal.

4. New Legislation.

(b) ROBERT OLSON,
Plaintiff, Petitioner

vs.

JUDGE RONALD G. FRANKLIN,
District Judge of Blaine County,
Oklahoma,
Respondent.

Oklahoma Supreme Court Case #101682

ROBERT OLSON,
Plaintiff, Petitioner

vs.

CONTINENTAL RESOURCES, INC.,
an Oklahoma Corporation,
HAROLD HAMM,
an Individual and President
and Chief Executive Officer of
Continental Resources, Inc.,
TOM LUTTRELL,
an individual and Vice President of
Continental Resources, Inc.
AND
DAVIS OPERATING COMPANY,
an Oklahoma Corporation,
WILLIAM H. DAVIS,
an individual and President of
Davis Operating Company.

Base Case: Blaine County Oklahoma District Court
Case CJ-2004-121 , refile of CJ-2002-151

List of Attorneys and Interested Entities and Addresses

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---

Oklahoma Supreme Court
Room B - 2
State Capitol Building
2300 North Lincoln Blvd
Oklahoma City, Oklahoma
73105

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11. Smith v. Farmers Cooperative Ass'n, 1992 OK 11, prgf 8; 825 P.2d 1323, 1326. 9

12. Hearing Transcript, January 13, 2005, Loss of income-producing property ..... 30.

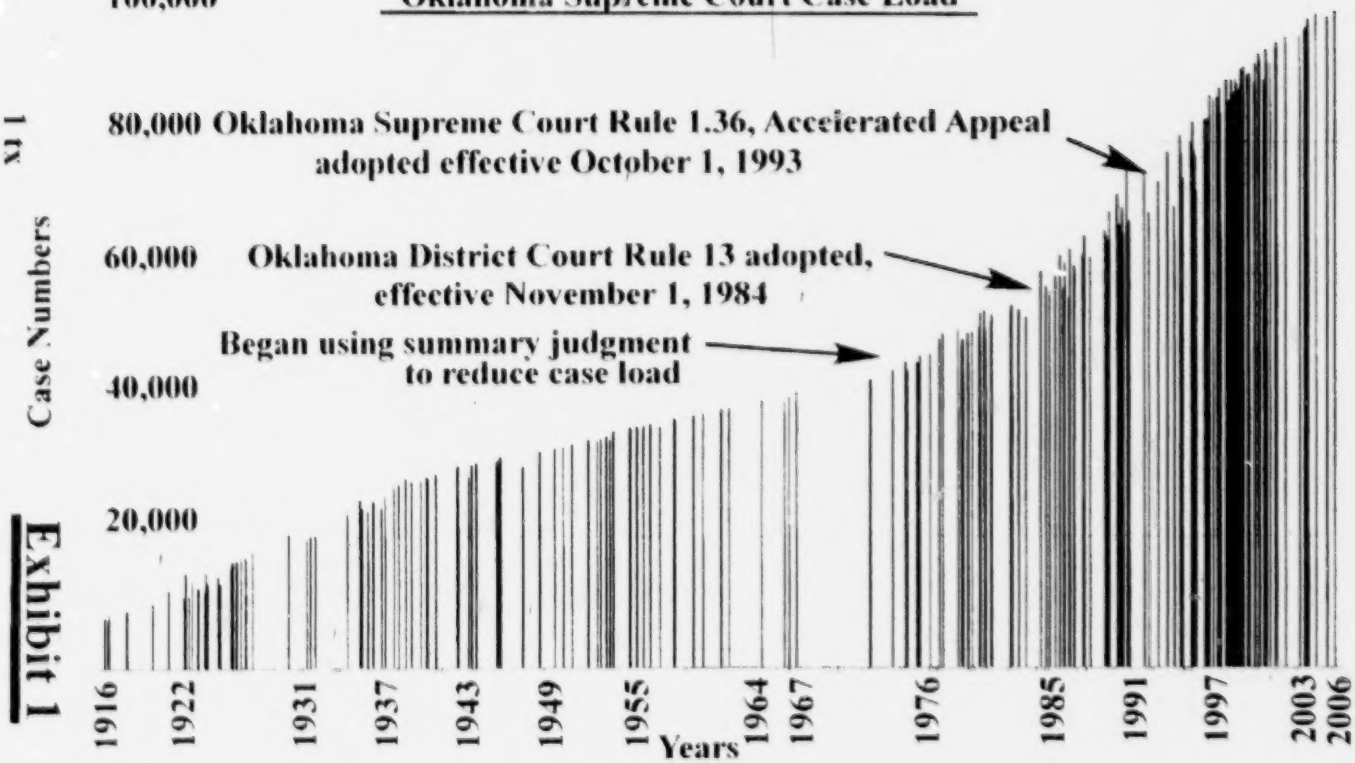
Oklahoma Supreme Court Case Load
100,000
80,000
60,000
40,000
20,000
Case Numbers
Oklahoma Supreme Court Rule 1.36, Accelerated Appeal adopted effective October 1, 1993
Oklahoma District Court Rule 13 adopted, effective November 1, 1984
Began using summary judgment to reduce case load
1916
1922
1931
1937
1943
1949
1955
1964
1967
1976
1985
1991
1997
2003
2006
Years

Exhibit 1

1. Oklahoma District Court Rule 13

As can be seen from Exhibit 1, (Oklahoma Supreme Court Case Load). The Oklahoma court system began using summary judgment as a means of case load reduction in approximately 1975. (Lewis v. Phillips Petroleum Co., Okla. App., 559 P.2d 868 (1977). Then on November 1, 1984, the District Court Rule 13 on summary judgment became effective. Then the citizens of Oklahoma began appealing to the Oklahoma Supreme Court in dramatically greater numbers. Through Oklahoma Supreme Court Rule 1.36, I think the citizens have not found satisfaction therein either. Please see Appendix page 34 Case # 102,932 .

I produced Exhibit 1 by plotting the Oklahoma Supreme Court case numbers against the year published from cases I had in my files. At this time scale (1916 to 2006), the varibility between filing date and published date will not significantly change the aspect of Exhibit 1. Maybe 1%.

District Court Rule 13 requires respondents to a motion for summary judgment to respond within fifteen (15) days: : before they have had an opportunity to develop their side of the case! This Appendix pages 2 to 6 . Also, please see the exerpts from a discussion of District Court Rule 13 by Clyde A. Muchmore and Harvey D. Ellis, Jr. This Appendix pages 7 to 9 .

Oklahoma District Court Rule 13 is nonstatutory. The rules for summary judgment are mentioned four times in the Pleading Code: O.S.§§ 2012(A)(5), O.S.§§ 2012 (B), O.S. § 2012(D), and O.S. § 2012(F)(4). But nowhere in the

statutory Pleading Code is the location of the Rules for Summary Judgment specified. This Appendix pages 10 to 13 .

The fact that the District Court Rule 13 and the accelerated appeal procedure are " designed to improve the likelihood of affirmance" (Muchmore, supra.) means justice has taken a back seat to the concept of reduction of case load. Exhibit 1 shows that slighting justice has not reduced case load.

2. Pro Se Practice

The ex parte Case Notebooks referred to as "niceties of the law" (Petition Appendix page 51 lines 10 to 12) and as an " aid to the court" (Petition Appendix page 48 , line 1 , and Petition Appendix pages 111 to 113 , and Petition Appendix page 166 , exerpt : page 5 , paragraph 1.) provide attorneys with clandestine, exclusive off-the-record access to the judge. That may make the judge's job easier but the practice violates the citizen's Fourteenth Amendment right to an impartial tribunal.

As a pro se litigant, I was able to ask questions an attorney would not ask for fear of retribution. And, these questions had to be responded to.

A certain amount of time was necessary to elicit and develop the necessary proof of the extent and content of the ex parte communication between the opposing counsel and the judge.

Plaintiff/Appellant/Petitioner Robert Olson refiled the original Blaine County, Oklahoma case CJ-2002-151 as Blaine County, Oklahoma case CJ-2004-121within the one-year limitation under O.S. Title 12 § 100. Case CJ-2004 - 121 was dismissed on summary judgment by Judge Franklin. The case has been appealed to the Oklahoma Supreme Court as Case Number # 102398. Oklahoma Supreme Court Rule 1.36 currently governs summary judgment appeals. This Appendix pages 14 to 21 .

Appellant Robert Olson requested the normal appellate procedure which included briefs. The Oklahoma Supreme Court denied that request and imposed Oklahoma Supreme Court Rule 1.36. This Appendix pages 22 to 25 .

On February 2, 2006, Plaintiff/Appellant Robert Olson filed a Request for Permission to File a Brief in Appeal Case # 102,398. This filing included unambiguous notice of apparent conflict of District Court Rule 13 and Oklahoma Supreme Court Rule 1.36 with the Due Process of Law provision of the Fourteenth Amendment of the United States Constitution. This Appendix pages 26 to 32.

The response of the Oklahoma Supreme Court to notice of potential conflict between Oklahoma District Court Rule 13 and Oklahoma Supreme Court Rule 1.36 with the Due Process of Law provision of the Fourteenth Amendment of the United States Constitution was: "Consideration, if any, of Appellant's request for permission to file a brief under Oklahoma Supreme Court Rule 1.36(g) is deferred.". This Appendix pages 33 to 35.

Plaintiff/Appellant/Petitioner Robert Olson is not the only appellant who seeks an appeal path that is not Oklahoma Supreme Court Rule 1.36. This Appendix page 34 Case Number # 102,932.

3. Fiduciary Duty -- New Law

In Goodall v. Trigg, 944 P.2d 292, 138 Oil and Gas Rep. 118, 1997 OK 74, Vice Chief Justice Summers writes that the fiduciary duty would "...impose too onerous a burden on the operator.". And "While Oklahoma case law has not enunciated the exact nature of the special relationship between a royalty owner and an operator, nearly all cases have agreed that a special relationship exists."

In case law discussions of the contract relationships in oil and gas deals, the leasing contract and the operating agreement have received much attention. However, the bridging contract (the working interest participation agreement) has not received much attention. Since the royalty and override interests are not signatories of the participation agreement, they are deemed not privy to those agreements and thus deemed not entitled to a copy of the agreement; even though the royalty and override are affected by the terms of that agreement (ie: the net revenue interest).

To the royalty and override interest owners, the key element of the working interest participation agreement is the Net Revenue Interest. The working interest participation agreement is subject to the Net Revenue Interest. Through the participation agreement, the working interest owners pay, or cause to be paid, all royalty and override interest revenues. Thus the royalty and override interest owners are creditor beneficiaries of the working interest participation agreements. The working interest participation agreement specifies who pays for what and who receives what.

The operating agreement specifies how the working interest participation agreement will be carried out. The operating agreement is a service contract to the working interest owners. Thus, the royalty and override interest owners are third party creditor beneficiaries of the of the operating agreement and are thereby due a straight fiduciary duty from the operator. This Appendix page 36 This relationship has not been recognized or discussed in previous case law. The participation agreements rarely see the light of day in legal actions. These agreements should be asked for in discovery. The Division Orders are tangible evidence of the existence of the participation agreements and their recognition of the royalty and override owner's interests and recognition by these agreements that they are subject to the royalty and override lease burdens.

In Oklahoma , operators asked and received the authority from the Oklahoma Legislature to distribute oil and gas revenues. (Title 52 Okl. St. Ann. § 570). This additional authority gives the operator control of operations and control of revenues. This control and subsequent necessary reliance from the rightful recipients of revenue. should also impose fiduciary duty on the operator. After all, those distributed revenue proceeds are Other People's Money.

The position of third party creditor beneficiary of the override was recognized in everything but name in Phillips v. Taylor, 116 F.2d 994, 313 U.S. 565, 61 S. Ct. 941.

For a tenant of an oil and gas lease (the operator) to use this service contract (the operating agreement) to enrich himself at the expense of any or all of his joint venture

partners (including the royalty and override interests) is to violate the fiduciary duty owed to his joint venture partners.

4. New Legislation.

Exhibit 1 indicates there is a problem in the Oklahoma District Courts. I have been told that this has long been recognized but there was nothing but complaints to work with. This case has provided enough concrete evidence to begin reform.

New legislative initiatives would increase the Council on Judicial Complaints from 3 members to 5 members. The two additional members shall not be members of the Oklahoma Bar Association. The Court on the Judiciary would be increased to 13 members. Four new members shall not be members of the Oklahoma Bar Association. This Appendix pages 37 to 42.

Under current rules, the Council on Judicial Complaints is limited to proceeding on judicial offenses requiring impeachment or dismissing the complaint. The new legislation provides for intermediate reprimand for judicial offences that do not rise to the level requiring dismissal or compulsory retirement.

I have been told this legislative initiative has been voted out of the Oklahoma House of Representatives Judiciary Committee on an 11 to 1 vote. This legislative initiative is now in the Oklahoma Senate, sponsered by the Chairman of the Senate Judiciary Committee.

5. Discussion and Prayer

The first procedure most civil cases in Oklahoma face after Petition and Answer is a motion for summary judgment. As has been discussed above, the recipient of

the Oklahoma District Court Rule 13 summary judgment motion (before discovery and without oral argument) is at a significant Due Process of Law disadvantage, especially if the respondent is unknowingly facing a clandestine ex parte Case Notebook, hand delivered to the judge. Exhibit 1 is an indication of the citizen's outrage at this situation.

In this United States appeal (05-1057), Petitioner Robert Olson asks that:

A. Judge Franklin be disqualified for violation of the Code of Judicial Conduct Canon 3B (6) and Canon 3B (6)(a).

B. Judge Franklin should be disqualified because the summary judgment in Case CJ-2002-151 was pronounced before substantial discovery and without oral argument. This prevented the Plaintiff, Robert Olson, from fully developing his side of the case (lack of discovery) and prevented the Plaintiff, Robert Olson, from fully being able to present his side of the case to the court and to the record.

C. The actions of the opposing counsel in providing the ex parte Case Notebook violated the Oklahoma Rules of Professional Conduct Rule 3.5 by not providing the opposing party a copy of the ex parte communication with the judge and thereby prevented the Plaintiff, Robert Olson, having the opportunity to respond.

D. The actions of the Judge and opposing counsel constituted extrinsic fraud practiced on the Plaintiff/ Appellant/Petitioner, Robert Olson, which did not allow response to the ex parte Case Notebook and thus prevented him from fully and compltetly presenting his side of the case to the court and to the record.

E. Petitioner Robert Olson prays the Okalhoma Supreme Court decision in Case # 101682, the Court of Civil

Appeals Case # 99704 be reversed. and the judgments in Blaine County, Oklahoma Cases CJ-2002-151 and CJ-2004-121 be vacated.

F. Oklahoma Presiding Judge Linder has declared from the bench that the ex parte Case Notebooks are commonplace. Petition Appendix pages 32 to 36 and page 51. The opposing counsel provide the ex parte Case Notebooks as a matter of course to provide an "aid to the court". Petition Appendix page 48. This would indicate the practice is ingrained in the practice of law in Oklahoma District Courts. That means outlawing the practice of providing the ex parte Case Notebooks would only drive the practice further under the table.

The Petitioner, Robert Olson, prays the Court find that when any party provides a Case Notebook to the Judge, the Case Notebook becomes an official document in the case as defined by O.S. Title 21 §461, Petition Appendix page 74, as soon as it is received by the Judge. As such, copies of the Case Notebook are required to be served on the Opposing Parties and included in the official record of the case. Also, the Opposing Parties are allowed a reasonable time to respond.

Respectfully submitted.

Robert Olson

Robert Olson
9022 E 60th Street
Tulsa, Oklahoma 74145
918 252 1987

APPENDIX

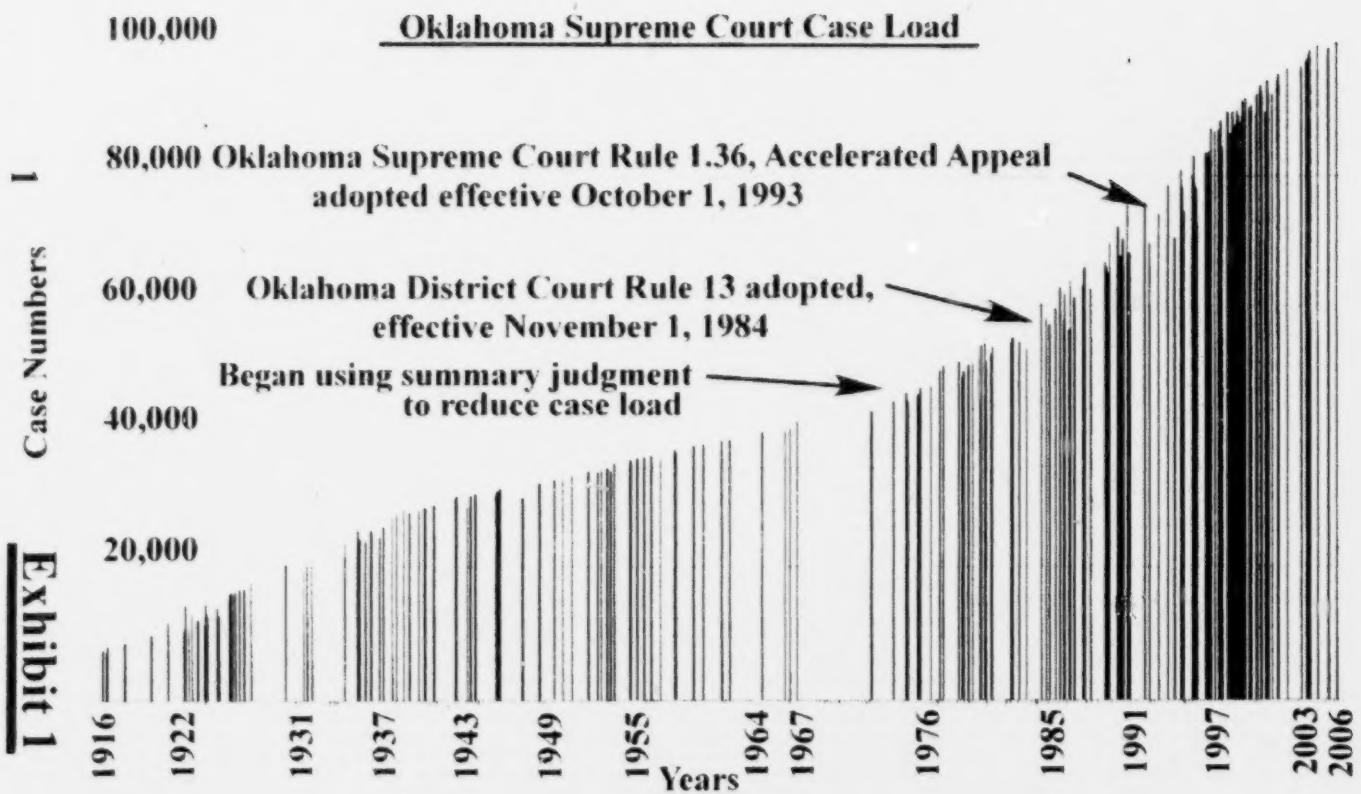
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Exhibit 1

RULES FOR DISTRICT COURTS OF OKLAHOMA

Adopted Effective January 1, 1982

Including Amendments Received Through

November 1, 2004

Research Note

Annotations to the Rules for District Courts of Oklahoma are available in Oklahoma Statutes Annotated, *Title 12, Chapter 2, Appendix 1, and in the OK-RULES database on* Westlaw. Westlaw *may also be used to search for specific terms in court rules or to update court rules. See the OK-RULES and OK-ORDERS Scope Screens for further information.*

Amendments to these rules are published, as received, in the P.3d *and* Oklahoma Decisions *advance sheets.*

RULE 13. SUMMARY JUDGMENT OR SUMMARY DISPOSITION OF ISSUES

a. A party may move for either summary judgment or summary disposition of any issue on the merits on the ground that the evidentiary material filed with the motion or subsequently filed with leave of the court show that there is no substantial controversy as to any material fact. The motion shall be accompanied by a concise written statement of the material facts as to which the movant contends no genuine issue exists and a statement of argument and authority demonstrating that summary judgment or summary disposition of any issues should be granted. Reference shall be made in the statement to the pages and paragraphs or lines of the evidentiary materials that are pertinent to the motion. Unless otherwise ordered

by the court, a copy of the material relied on shall be attached to the statement.

The motion may be served at any time after the filing of the action, except that, if the action has been set for trial, the motion shall be served at least twenty (20) days before the trial date unless an applicable scheduling order establishes an earlier deadline. The motion shall be served on all parties and filed with the court clerk.

b. Any party opposing summary judgment or summary disposition of issues shall file with the court clerk within fifteen (15) days after service of the motion a concise written statement of the material facts as to which a genuine issue exists and the reasons for denying the motion; provided, however, that a responsive statement shall not be due from a party earlier than forty-five (45) days after service of the first summons by, or upon, that party. Unless otherwise ordered by the court, the adverse party shall attach to the statement evidentiary material justifying the opposition to the motion, but may incorporate by reference material attached to the papers of another party. In the statement, the adverse party or parties shall set forth and number each specific material fact which is claimed to be in controversy and reference shall be made to the pages and paragraphs or lines of the evidentiary materials. All material facts set forth in the statement of the movant which are supported by acceptable evidentiary material shall be deemed admitted for the purpose of summary judgment or summary disposition unless specifically controverted by the statement of the adverse party which is supported by acceptable evidentiary material. If the motion for summary judgment or summary disposition is granted, the party or parties opposing the motion cannot on appeal rely on any fact or material that is not referred to or included in the statement in order to show that a substantial controversy exists.

c. The affidavits that are filed by either party shall be made on personal knowledge, shall show that the affiant is competent to testify as to the matters stated therein, and shall set forth matters that would be admissible in evidence at trial. The admissibility of other evidentiary material filed by either party shall be governed by the rules of evidence. If there is a dispute regarding the authenticity of a document or admissibility of any submitted evidentiary material, the court may rule on the admissibility of the challenged material before disposing of the motion for summary judgment or summary disposition. A party challenging the admissibility of any evidentiary material submitted by another party may raise the issue expressly by written objection or motion to strike such material. Evidentiary material that does not appear to be convertible to admissible evidence at trial shall be challenged by objection or motion to strike, or the objection shall be deemed waived for the purpose of the decision on the motion for summary judgment or summary disposition. If a trial of factual issues is required after proceedings on a motion for summary judgment or summary disposition, evidentiary rulings in the context of the summary procedure shall be treated as rulings in limine.

d. Should it appear from an affidavit of a party opposing the motion that for reasons stated the party cannot present evidentiary material sufficient to support the opposition, the court may deny the motion for summary judgment or summary disposition without prejudice or may order a continuance to permit affidavits to be obtained or depositions to be taken or discovery to be had or may make such other order as is just. A motion filed pursuant to this paragraph shall not be deemed a consent to the exercise by the court of jurisdiction over the party, or a waiver of the right to file a motion to dismiss the action.

e. If it appears to the court that there is no substantial controversy as to the material facts and that one of the parties is entitled to judgment as a matter of law, the court shall render judgment for said party.

If the court finds that there is no substantial controversy as to certain facts or issues, the court may enter an order specifying the facts or issues which are not in controversy and direct that the action proceed for a determination of the remaining fact or issues. An order denying either summary judgment or summary disposition is interlocutory and is not reviewable on appeal prior to final judgment.

f. The serving of a motion for either a summary judgment or a summary disposition of issues before a responsive pleading is served where a responsive pleading is permitted does not preclude the opposing party from amending the pleading without leave of court. If a motion for either a summary judgment or summary disposition is served after the case is at issue, the hearing on the motion and the pretrial conference may, in the discretion of the court, be held ai one time. A court may decide a motion for either a summary judgment or summary disposition without a hearing, and where this is done, the court shall notify the parties of its ruling by mail.

g. The pleadings or the pretrial conference order may be amended either before or during the hearing on a motion for either summary judgment or summary disposition under this rule, and the court may continue the hearing to a subsequent time. After a court grants a judgment under this rule, neither the pleadings nor the pretrial conference order may be amended by the addition of allegations in regard to any fact which was known to the party and which could have been presented at the hearing on the motion, and a motion for a motion for a rehearing or for a new trial on the ground of newly discovered evidence must comply

with the provisions of 12 O.S. §655.

h. Judgments entered on motion for summary judgment or appealable summary disposition are subject to accelerated appellate review under Rule 1.36 of the Oklahoma Supreme Court Rules. The record on appeal will be limited to:

(1) the memorialized entry of judgment; in multi-party or multi-claim cases the judgment or dismissal order must *either* (1) dispose of all claims and all parties or

(2) entirely dispose of at least one claim or one party *and* contain the express determination that there is no just reason for delay with the express direction by the trial judge that judgment be filed. See 12 O.S. § 994.

(2) pleadings proper as defined by 12 O.S. §2007(A);

(3) applicable instruments on file, including the motion and response with supporting briefs and materials filed by the parties as proscribed by subsections (a) and (b);

(4) any other item on file which, according to some recitation in the trial court's written journal entry or in some other order, was considered in its decision;

(5) any other order dismissing the claim or determining the issues as to some but not all parties or claims;

(6) any transcripts of the hearing on the motion; and

(7) any motions, along with supporting and responsive briefs, for a new trial (re-examination) of summary judgment or appealable summary disposition process.

[Withdrawn and replaced effective November 1, 1984; amended June 29, 1993; amended effective September 16, 2002.]

Publisher's note: Section 4 of the order of September 16, 2002 provides in part: "The amendments to District Court Rules 4 and 13 made by this Order shall take effect thirty days after this Order is filed with the Clerk of the Supreme Court" [September 17, 2002].

SELECTED EXERPTED QUOTES FROM:

OKLAHOMA
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AND
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SECOND EDITION

Volume 2

Author :

Clyde A. Muchmore
Harvey D. Ellis, Jr.

LexisNexis

Section 1005 SUMMARY JUDGMENT

In state practice in Oklahoma, summary judgment procedure is governed by Dist. Ct. Rule 13, the purpose of which "is to relieve the courts of useless trials on issues that cannot be supported factually." Fraser, *Summary Judgment Where Facts Are Not Controverted*, 51 O.B.J. 1611 (1980).

Importance of Considering Appellate Procedure When Filing Motion

A motion for summary judgment is governed by strict procedures relating to appellate review, prescribed by Sup. Ct. R. 1.36, and referred to in Dist. Ct. Rule 13(h). These appellate procedures must be considered *before* filing a motion for summary judgment, because in the event of an

appeal, the parties are limited to presenting to the appellate court *only* those materials (usually including *briefs*) which were presented to the trial court. On a motion for summary judgment , therefore, the parties are making their presentation to *both* courts in the event of an appeal.

Relationship Between Federal and State Law

Although other Oklahoma laws modeled after the Federal Rules of Civil Procedure have been codified, summary judgment procedures remain nonstatutory, as they were prior to the adoption of the Oklahoma Pleading Code. (footnote 4. = There are statutory references to summary judgment, in 12 O.S. S 2012(A), (B) and (C).) Dist. Ct. Rule 13 sets forth the Oklahoma procedures for summary judgment, and Dist. Ct. Rule 4, relating to motions generally, is also applicable.

Supporting and Opposing Papers

The party opposing summary judgment must file a response within 15 days after service of the motion, except that no response is due earlier than 45 days after that party has first either served or been served with a summons. Dist. Ct. Rule 13(b).

Standards for Ruling

Malson v. Palmer Broadcasting Group, 1997 OK 42, pgrf 11, 936 P.2d 940, 942. "It is not the purpose of summary judgment to substitute trial by affidavit for a trial according to law."

Judicial Trend on Review

Summary judgments are similar to judgments on the pleadings, which are not favored by the courts. Smith v. Farmers Cooperative Ass'n, 1992 OK 11, prgf 8, 825 P.2d 1323, 1326.

The impact of the trend toward more favorable treatment of motions for summary judgment has arguably also been felt in the Oklahoma state court system, even if the Oklahoma Supreme Court does not subscribe to all the tenets of the U.S. Supreme Court's trilogy. Nevertheless, in the past, summary judgments have not fared well on appeal, with more than half reversed. The accelerated appellate procedure described above is designed to improve the likelihood of affirmance, by requiring parties opposing summary judgments to make all their arguments clearly known to the trial court.

CIVIL PROCEDURE

OKLAHOMA PLEADING CODE

O.S. §2012

§ 2012. Defenses and Objections -- When and how presented -- By pleading or motion

DEFENSES AND OBJECTIONS; WHEN AND HOW PRESENTED; BY PLEADING OR MOTION

A. WHEN PRESENTED. 1. Unless a different time is prescribed by law, a defendant shall serve an answer:

a. within twenty (20) days after the service of the summons and petition upon the defendant,

b. within twenty (20) days after the service of the summons and petition upon the defendant, or within the last day for answering if applicable; provided, a defendant may file a reservation of time which shall extend the time to respond twenty (20) days from the last date for answering. The filing of such a reservation of time waives defenses of paragraphs 2, 3, 4, 5, 6, and 9 of subsection B of this section.

2. A party served with a pleading stating a cross-claim against that party shall serve an answer thereto within twenty (20) days after the service upon the party.

3. The plaintiff shall serve a reply to a counter-claim in the answer within twenty (20) days after service of the answer or , if a reply is ordered by the court, within twenty (20) days after service of the order, unless the order otherwise directs.

4. The party requesting a summons to be issued or filing a counter-claim or cross-claim may elect to have the answer served within thirty-five (35) days in lieu of the twenty (20) days set forth in this section.

5. The service of a motion permitted under this section or a motion for **summary judgment** alters these periods of time as follows: if the court denies the motion or postpones its disposition until the trial on the merits, the responsive pleading shall be served within twenty (20) days after notice of the court's action, unless a different time is fixed by order of the court.

B. HOW PRESENTED. Every defense, in law or fact, to a claim for relief in any pleading, whether a claim, counterclaim, cross-claim, or third-party claim, shall be asserted in the responsive pleading thereto if one is required, except that the following defenses may at the option of the be made by motion:

1. Lack of jurisdiction over the subject matter;
2. Lack of jurisdiction over the person;
3. Improper venue;
4. Insufficiency of process;
5. Insufficiency of service of process;
6. Failure to state a claim upon which relief can be granted;
7. Failure to join a party under section 2019 of this title;
8. Another action pending between the same parties for the same claim;
9. Lack of capacity of a party to be sued; and
10. Lack of capacity of a party to sue.

A motion making any of these defenses shall be made before pleading if a further pleading is permitted. No defense or objection is waived by being joined with one or more other defenses or objections in a responsive pleading

or motion. If a pleading sets forth a claim for relief to which the adverse party is not required to serve a responsive pleading, the adverse party may assert at the trial any defense at law or fact to that claim for relief. If, on a motion asserting the defense numbered 6 of this subsection to dismiss for failure of the pleading to state a claim upon which relief can be granted, matters outside the pleading are are presented to and not excluded by the court, the motion shall be treated as one for **summary judgment** and all parties shall be given reasonable opportunity to present all material made pertinent to the motion by the **rules for summary judgment.** A motion to dismiss for failure to state a claim upon which relief can be granted shall separately state each omission or defect in the petition, and a motion that does not specify such defects or omissions shall be denied without a hearing and the defendant shall answer within twenty (20) days after notice of the court's action.

C. PRELIMINARY HEARINGS. The defenses specifically enumerated in paragraphs 1 through 10 of subsection B of this section, whether made in a pleading or by motion, and the motion to strike mentioned in subsection D of this section shall be heard and determined before trial on application of any party, unless the court orders that the hearing and determination thereof be deferred until the trial. If the court determines that venue is proper, the action shall not be dismissed for improper venue as a result of the jury's verdict or the subsequent ruling of the court on a demurrer to the evidence or a motion for a directed verdict.

D. MOTION TO STRIKE. Upon motion made by a party before responding to a pleading or, if no responsive

pleading is permitted by this act, upon motion made by a party within twenty (20) days after the service of the pleading upon the party or upon the court's own initiative at any time, the court may order striken from any pleading any insufficient defense. If, on a motion to strike an insufficient defense, matters outside the pleadings are presented to and not excluded by the court, the motion shall be treated as one for **partial summary judgment** and all parties shall be given reasonable opportunity to present all materials made pertinent to the motion by the **rules for summary judgment.**

. . . . .

F. WAIVER OR PRESERVATION OF CERTAIN DEFENSES.

1.

.

.

4. A waiver of the defense in paragraph 6 of subsection B of this section does not preclude a later contention that a party is not entitled to any relief as a matter of law, either by motion for **summary judgment** , or by demurrer or motion at or after trial.

OKLAHOMA SUPREME COURT RULES

Effective January 1, 1997

Including Amendments Received Through November 1, 2004

Research Note

Annotations to the Oklahoma Supreme Court Rules are available in Oklahoma Statutes Annotated, *Title 12, Chapter 15, Appendix, and in the OK-RULES database on* Westlaw. Westlaw *may also be used to search for specific terms in court rules or to update court rules. See the OK-RULES and OK-ORDERS Scope Screens for further information.*

Amendments to these rules are published, as received, in the P.3d *and* Oklahoma Decisions *advance sheets.*

PART II. APPEALS FROM JUDGMENT OR FINAL ORDERS OF THE DISTRICT COURT

RULE 1.36 ACCELERATED PROCEDURE FOR SUMMARY JUDGMENTS AND CERTAIN DISMISSALS

(a) Cases Applied. The Rule 1.36 accelerated procedure will govern appeals from:

1. summary judgments in cases in which the motions were filed under District Court Rule 13 after October 1, 1993; and
2. final orders in cases in which motions to dismiss for

failure to state a claim or lack of jurisdiction (of a person or subject matter) under District Court Rule 4 were filed after October 1, 1993.

In multi-party or multi-claim cases the summary judgment or dismissal order must either (1) dispose of all claims and all parties or (2) entirely dispose of at least one claim or one party and contain the express determination that there is no just reason for delay with the express direction by the trial judge that judgment be filed. See 12 O.S. Supp. 1995 § 994.

(b) Commencement of Appeal. Appeals in these cases will be commenced by filing a petition in error with the certified copy of dismissal order or of summary judgment and, where applicable, a certified copy of the order denying new trial, with payment of costs or an affidavit *in forma pauperis*. The petition in error must comply with all Rules to the extent they are consistent with Rule 1.36. The record shall be filed at the same time as the petition in error. Rule 1.36(d).

(c) Record on Appeal. The record on appeal will stand limited to:

(A) In appeals from summary judgment:

(1) the memorialized order by which summary judgment was entered;

(2) pleadings proper as defined by 12 O.S. 1991 § 2007(A), (petition, answer, etc.);

(3) applicable instruments on file, including the motion and response with supporting briefs and attached materials filed by the parties as required by District Court Rules 13(a) and 13(b);

(4) any other item on file which, according to some

recitation in the trial court's journal entry or in some other order, was considered in the decisional process;

(5) any other order dismissing some but not all parties or claims;

(6) any transcripts of proceedings on the motion(s);

(7) any motions, along with supporting and responsive briefs, for new trial (re-examination) of the summary judgment process;

(8) the appearance docket; and

(9) a cover page and Index of the record prepared by the party.

(B) In appeals from final orders on motioms to dismiss:

(1) the memorialized order of dismissal;

(2) pleadings proper as defined by 12 O.S. 1991 § 2007(A), (petition, answer, etc.);

(3) the instruments upon which the dismissal is rested;

(4) the motion(s) to dismiss and any supporting briefs;

(5) any responsive brief by the party asserting the claim;

(6) any other item on file which, according to some recitation in the trial court's dismissal order or in some other order, was considered in its decision;

(7) any other order dismissing some but not all parties or claims;

(8) any transcripts of proceedings on the motion;

(9) any motions, along with supporting and responsive briefs, for a new trial (re-examination) of the dismissal order;

(10) the appearance docket;

(11) a cover page and Index of the record prepared by the party.

(d) Record, Filing, Index, Copies, Transcripts, Costs, Supplement to Record, and Additional Copies on Certiorari. The record shall be filed by appellant as a separate document, not attached to the petition in error. The record shall be titled "Record on Accellerated Appeal," and shall be preceded by a separate page containing signature of counsel (or pro se parties) and a certificate of service, followed by an "Index to Contents of Record." The index shall use numeric references which shall correspond to tabs for each of the documents or transcripts included in the record. The record shall consist of copies of instruments authorized by Rule 1.36(c), selected for inclusion by the appellant. to the front of the original and each of the copies of the record there shall be appended the court clerk's certificate identifying each of the included instruments as a true and correct copy of the original on file in the court clerk's office.

An original and four (4) copies of the record and certificate of the clerk shall be filed. One copy shall be served on every other party to the appeal unless waived, and any such waiver must be reflected on the certificate of service.

An appellant who is an inmate, as defined by the provisions of 57 O.S. §566(B)(2), lawyerless and unable to produce the record required by this subsection, may attach to the petition in error an affidavit that discloses his (or her) prisoner status and sets out a designation of record to be assembled for the appeal. When such affidavit is filed, the Supreme Court's clerk shall order from the trial court's clerk the original record which is to be compiled in accordance with the inmate's designation in the text of his (or her)

affidavit. If the appealing inmate's pauper's affidavit is on file in this court, the record shall be prepared and transmitted to this court -- without payment of costs -- within thirty (30) days of the date of the inmate's affidavit (with designation of record) is transmitted to the trial court by this court's clerk.

It shall be the appellant's duty to order transcripts from the court reporter and to pay costs to ensure timely completion of transcripts. If the transcripts are not filed with the petition in error because of delay in transcription, no more than one 30-day extension of time to complete transcripts will be granted by the court for good cause shown.

If the appellee desires to include documents or transcripts not included by the appellant in the record on appeal, the appellee shall order any such transcript and file a separate document titled "Supplement to Record on Accelerated Appeal," attaching any instrument or transcripts in the same form and manner as required for an appellant under Rule 1.36 herein. Any such supplement to the record shall be filed concurrently with the Response to the petition in error. The cost of transcribing appellee-ordered portion of the record will be born by the appellant unless: (1) The trial judge finds that the portion supports a counter or cross-appeal, or (2) The trial judge directs otherwise for good cause shown. In the latter event the appellee shall pay the transcription fee.

In the event that any party files a petition for writ of certiorari to review a Court of Civil Appeals decision under this accelerated procedure, the Supreme Court may issue an order requiring the party who filed such a petition for writ

of certiorari to submit to the Supreme Court Clerk additional copies of the Record on Accelerated Appeal and any Supplement to Record on Accelerated Appeal.

(e) Response. Response(s) to the petition in error shall be filed within 20 days of the petition in error. If the appellee desires to include documents or transcripts not included by the appellant the appellee shall comply with Rule 1.36(d).

(f) Assignment of Appeal. After a response has been filed or the time for filing has expired, the appeal may be assigned to a division of the Court of Civil Appeals, unless initial screening is incomplete or there are unresolved jurisdictional, procedural or postural defects. Assignment to the Court of Civil Appeals shall be in the manner directed by the Chief Justice, with notice given to the parties.

(g) Appellate Review and Briefs. The appellate court shall confine its review to the record actually presented to the trial court. Unless otherwise ordered by the appellate court, no briefs will be allowed on review. If briefs are ordered, the appellate court will prescribe a briefing schedule. Motions for leave to submit appellate briefs shall be deemed denied unless affirmatively granted by the court. No briefs shall be tendered by attachment to a motion for leave to brief, and the clerk shall not accept or file an appellate brief without prior leave of the court. A motion for appeal related attorney's fees must be made by motion prior to mandate. See Rule 1.14.

(h) Oral Argument. Appeals may be decided pursuant to this rule with or without argument. If argument is granted and the appellate court should orally announce its decision from the bench, it shall also, as in other cases, hand down a memorandum opinion or order.

(i) Certiorari. Certiorari to review any decision of the Court of Civil Appeals made pursuant to this rule may be sought in the same manner as in any other appeal. The time for filing a petition for certiorari is governed by Rules 1.178, 1.179.

(j) Motion to Retain. Nothing in this rule shall prevent a party from requesting the Supreme Court to retain the case prior to its assignment to the Court of Civil Appeals. The assigned division of the Court of Civil Appeals may, on its own motion or on motion of a party, order any appeal removed from consideration by this accelerated procedure and reassigned for disposition by regular appellate process. In any such case the appellant shall be directed to designate the record on appeal, and the Notice of Completion of Record shall be due 60 days from the date of the order of this Court removing the appeal from the accelerated procedure.

(k) Appeals from Same Trial Court Case. An appeal governed by Rule 1.36 is prosecuted separately from another appeal from the same trial court case when the appeals challenge different appealable decisions. An Appeal subject to Rule 1.36 must be filed separately and accompanied by payment of costs in all cases except when it is a cross, counter, or co-appeal to an appeal governed by this Rule, or when filed as an amended petition in error as authorized by Rule 1.36(l). The petition in error for a cross, counter, or co-appeal shall have the accompanying record as required for a petition in error by this Rule.

The party filing a subsequent appeal shall clearly notify the court that prior or related appeals have been brought pursuant to Rule 1.36. An appeal governed by this rule may

be considered for consolidation or as a companion appeal pursuant to Rule 1.27 when appropriate.

(l) Amended Petition in Error on Post-judgment Order Granting Attorney's Fees, Interest, or Costs.

An amended petition in error challenging a post-judgment order granting or denying costs, interest, or attorney's fees may be filed in an appeal governed by Rule 1.36 when the order granting or denying costs, interest, or attorney's fees relates to the order previously appealed pursuant to Rule 1.36. The amended petition in error may be filed without payment of costs. The amended petition in error must be filed with this Court within thirty (30) days of the date of the order granting or denying the interest, costs, or attorney's fees. The record for the amended petition in error shall comply with Rule 1.36. The response to the amended petition in error shall comply with Rule 1.36(e). All provisions of Rule 1.36 apply to proceedings on the amended petition in error. Provided, an appellate court may, on application of a party or sua sponte, call for briefs on the amended petition in error.

[Effective January 1, 1997; amended by order of December 1, 2003.]

IN THE SUPREME COURT OF THE
STATE OF OKLAHOMA

FILED
SUPREME COURT
STATE OF OKLAHOMA
NOV 29 2005
MICHAEL S. RICHIE
CLERK

Tuesday November 29, 2005

THE CLERK IS DIRECTED TO ENTER THE FOLLOWING ORDERS OF THE COURT:

102,086 - DORIS ANN ADAM V. JOHN FLEEGER, individually and JOHN FLEEGER dba ROLLING HILLS FARM

Appellee's motion to dismiss is denied because there is no jurisdictional issue raised in the motion. Rule 1.6 of the Oklahoma Supreme Court Rules. Appellee's motion for an extension of time within which to file a response to the petition in error is granted. The response shall be filed within 20 days of the date of this order.

102,398 - ROBERT OLSON V. CONTINENTAL RESOURCES, INC., ET AL.

The Court notes the appellant's motion for clarification. this is an appeal from an order dismissing two defendants and granting summary judgment as to the remaining defendant. This cause shall proceed according to Rule 1.36 of the Oklahoma Supreme Court Rules. Appellant shall file a record in compliance with Rule 1.36 within 20 days of this order.

101,358 - JOHN BROOKS V. JOHNNIE LEE FARRAR ET AL.

The Court notes that there has been no entry of appearance on behalf of the personal representative of the appellant. The personal representative is directed to show cause, not later than January 11, 2006, why this appeal should not be dismissed as abandoned. If there is no response to this order, this appeal may be dismissed without further notice. The Clerk of the Supreme Court is directed to mail a copy of this order to the parties and to Larry Lucas, attorney at law, 112 N. Witte, Poteau, OK 74953, and Norma Brooks, 25967 136th Avenue, Cameron, OK 74932.

102,637 - MIKEL SJATE V. DANIEL K. SOREN

The filing of the amended petition in error on November 21, 2005, with the November 18 dismissal order attached, appears to satisfy this Court's inquiry into its jurisdiction. This appeal may proceed.

s\ Joseph M. Watt
CHIEF JUSTICE

IN THE SUPREME COURT OF THE
STATE OF OKLAHOMA

FILED
SUPREME COURT
STATE OF OKLAHOMA
DEC 9 2005
MICHAEL S. RICHIE
CLERK

Friday, December 9, 2005

THE CLERK IS DIRECTED TO ENTER THE FOLLOWING ORDERS OF THE COURT:

102,398 Robert Olson v. Continental Resources, Inc., an Oklahoma Corporation, Harold Hamm, an individual and President & Chief Executive Officer of Continental Resources, Inc..; Tom Luttrell, an individual and Vice President of Continental Resources, Inc., & Davis Operating Company & William H. Davis, an individual and President of Davis Operating Co.

Appellant is directed to comply with order. Motion or petition for rehearing is denied. Application for additional fifteen (15) days is granted.

102,416 Linda Hamner v. Helping Hands Home Health, Mega Life & Health Insurance Company, and the Workers' Compensation Court

Respondents are granted to December 9, 2005 to file their brief.

102,641 Johnny Walker v. Ryan Paul Fontenot

Appellant is directed to respond by December 15, 2005 to appellee's motion to correct record on appeal.

102,738 Countrywide Home Loans v. Dietrich Robinson & Jean Doe Robinson, John Doe & Jane Doe et al.

Requirement that record be filed by Decenber 12, 2005 is suspended pending conclusion of jurisdictional inquiry.

102,740 Sonya Jo Phillips n/k/a Sonya Jo Smith v. Ronnie Joe Phillips

Appellee's response to petition in error was accepted. Supplement to record will be accepted if filed by Decenber 16, 2005.

s\ Joseph M. Watt
CHIEF JUSTICE

IN THE SUPREME COURT
OF THE STATE OF OKLAHOMA

ROBERT OLSON, Plaintiff/Appellant vs. CONTINENTAL RESOURCES, INC., An Oklahoma Corporation, HAROLD HAMM, An Individual and President and Chief Executive Officer of Continental Resources, Inc., TOM LUTTRELL, An Individual and Vice President of Continental Resources, Inc., AND DAVIS OPERATING COMPANY, An Oklahoma Corporation, WILLIAM H. DAVIS, An Individual and President of Davis Operating Company Defendants/Appellees.	FILED SUPREME COURT STATE OF OKLAHOMA FEB 2 2006 MICHAEL S. RICHIE CLERK **#102398** Appeal Case No. CJ-2004-121 District Court Case Number

APPELLANT'S REQUEST FOR PERMISSION TO FILE A BRIEF IN SUPPORT OF HIS SIDE OF THE CASE UNDER OKLAHOMA SUPREME COURT RULE 1.36(g)

COMES NOW, the Plaintiff/Appellant, Robert

Olson, and requests permission from the Oklahoma Supreme Court to file a brief in support of his side of the case for the following reasons:

Under United States Supreme Court Rule 29 (4.)(c), which states:

> (c) In any proceeding in this Court in which the constitutionality of any statute of a State is drawn into question, and neither the State nor any agency, officer, or employee thereof is a party, the initial document filed in this Court shall recite that 28 U.S.C. § 2403 (b) may apply and shall be served on the Attorney General of that State. In such a proceedingfrom any court of the United States, as defined by 28 U.S.C. § 451, the initial document also shall state whether that court, pursuant to 28 U.S.C. § 2403 (b), certified to the State Attorney General that the constitutionality of a Statute of that State was drawn into question. See Rule 14.1(e)(v).

I, Appellant, Dr. Robert Olson, question the constitutionality of Oklahoma District Court Rule 13 as being in conflict with the Due Process of Law provisions of the Fourteenth Amendment of the United States Constitution. New evidence: a plot of Oklahoma Supreme Court Case Numbers versus Years from 1916 to 2006 (Exhibit 1), shows a dramatic increase in Oklahoma Supreme Court case load immediately after the present District Court Rule 13 was adopted and became effective on November 1, 1984. That dramatic increase in the

number of appeals is the citizens' howl of dismay at the unfairness of the nonstatutory District Court Rule 13. Justice is not a game of procedural "gotcha".

The party opposing summary judgment must answer within fifteen (15) days, must attach evidentiary materials before discovery and has no absolute right to oral argument. All of these elements of District Court Rule 13 impede the ability of the party opposing the motion for summary judgment to effectively present his side of the case.

Since Oklahoma Supreme Court Rule 1.36 on accelerated appeal, reviews only the materials presented to the trial court, the party opposing the motion for summary judgment may well find himself in the position of having to answer the original Petition, organize and present the in opposition to the motion for summary judgment before adequate discovery, and prepare for an appeal, all in fifteen (15) days. This is an unreasonably short amount of time. Motions to extend the time, at the discretion of the court, do not mitigate the conflict of District Court Rule 13 with the Due Process of Law provisions of the Fourteenth Amendment of the United States Constitution.

Adequate time, adequate discovery and oral argument are fundamental rights; not at the discretion of the court. Please see Goldberg v. Kelly, 397 U.S. 254, 90 S. Ct. 1011.

The implementation of District Court Rule 13 (Lewis v. Phillips Petroleum Co., Okla. App., 559 P.2d 868 (1977)) and Oklahoma Supreme Court Rule 1.36 (Oklahoma Civil Procedure Forms and Practice, 2nd Ed., Clyde A. Muchmore, Rel - 1-04, pg 10-55, paragraph 3) are designed for case load reduction rather that justice. These rules have not met the objective of case load reduction. Case load

reduction can be met by providing justice in legal proceedings.

District Court Rule 13 is the first procedure used in most District Court cases. The dramatic increase in Oklahoma Supreme Court appeal filings since November 1, 1984 is the citizens' reaction to the manifest injustice of District Court Rule 13. No matter what the attorneys and judges think, Exhibit 1 indicates the public perceives District Court Rule 13 as unjust.

United States Supreme Court Rule 14.1(g)(i) states:

> (i) If review of a state-court judgment is sought, specification of the stage in the proceedings, both in the court of first instance and in the appellate courts, when the federal questions sought to be reviewed were raised; the method or manner of raising them and the way in which they were passed on by those courts; and pertinent quotations of specific portions of the record or summary thereof, with specific reference to the places in the record where the matter appears (eg., court opinion, ruling on exception, portion of court's charge and exception thereto, assignment or error), so as to show that the federal question was timely and properly raised and that this Court has jurisdiction to review the judgment on a writ of certiorari. When the portions of the record relied on under this subparagraph are voluminous, they shall be included in the appendix referred to in the subparagraph 1 (i).

The taking of my vested personal property by the

court and giving it to the Defendants through a District Court Rule 13 summary judgment is a violation of the Due Process of Law provisions of the Fourteenth Amendment of the United States Constitution. References to that taking are throughout my filings in Blaine County, Oklahoma, District Court Cases CJ-2002-151 and CJ-2004-121 as well as Oklahoma Supreme Court Appeals # 99704 and # 101682.

The Pleading Statute Title 12 § 2012 mentions summary judgment four times: § 2012(A)(5.) [motion for], § 2012(B) [rules], § 2012(C) [application] and § 2012(D) [partial]. Nowhere in Title 12 § 2012 is the location of the rules for summary judgment specified. The rules do not have the gravitas of statutes. How can the application of the nonstatutory, discretionary District Court Rule 13 rules of summary judgment be considered "Due Process of Law" ?

As can be seen in Plaintiff/ Appellant's Motion for an Extension of Time, filed approximately September 10, 2005, Plaintiff/ Appellant was cut short on oral argument by the court at the hearing on summary judgment and not allowed to complete his oral argument. (Transcript of proceedings of August 11, 2005, before the Honorable Ronald G. Franklin, Exhibit C therein, page 5, Lines 19-21 and page 6, Lines 8 - 9).

Also, in the transcript of the hearing on Plaintiff's Motion for Recusal of Judge Ronald G. Franklin, held on January 13, 2005, before the Honorable Ray Dean Linder, on page 51, lines 4 - 5, it says: " and have lost a significant amount of income-producing property. " (underline by Appellant).

By this, the court has acknowledged the taking of vested

personal property. That should cause a significant Fourteenth Amendment, Due Process of Law, red flag to go up.

PRAYER

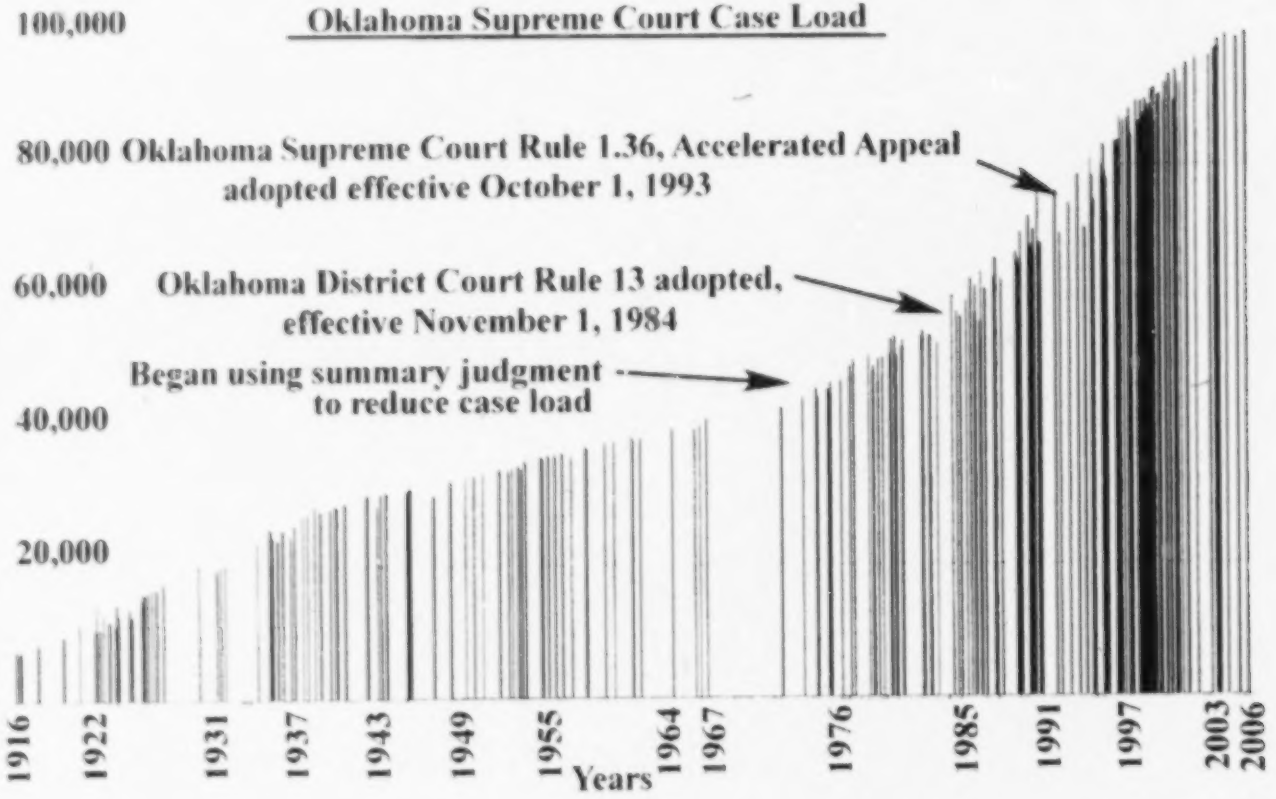
By virtue of the Fourteenth Amendment of the Constitution of the United States and Article 2 Section 7 of the Oklahoma State Constitution and with Title 12 §§ 3236, 3237 in mind, Plaintiff/ Appellant, Robert Olson, respectfully requests the opportunity to brief his side of the case to the Oklahoma Supreme Court.

Respectfully submitted

Robert Olson

Dr. Robert Olson
9022 E 60th Street
Tulsa, Oklahoma 74145
918 252 1987

Exhibit 1


Oklahoma Supreme Court Case Load
100,000
80,000
60,000
40,000
20,000
Case Numbers
Oklahoma Supreme Court Rule 1.36, Accelerated Appeal adopted effective October 1, 1993
Oklahoma District Court Rule 13 adopted, effective November 1, 1984
Began using summary judgment to reduce case load
1916
1922
1931
1937
1943
1949
1955
1964
1967
1976
1985
1991
1997
2003
2006
Years

IN THE SUPREME COURT OF THE
STATE OF OKLAHOMA

FILED
SUPREME COURT
STATE OF OKLAHOMA
FEB 9 2006
MICHAEL RICHIE
CLERK

Thursday, February 9, 2006

THE CLERK IS DIRECTED TO ENTER THE FOLLOWING ORDERS OF THE COURT:

100,560 American Yellow Checker Cab, Inc.; Tulsa yellow Cab, Inc., and Yellow Cab Inc. v. David Selver d/b/a Tulsa Taxi; and Yellow is Us, L.L.C.

Bankruptcy stay remains in effect. New report shall be filed by May 10, 2006.

101,237 (Cons w/102,405) Sarah M. Henry v. Barry J.Sims

Motion to allow time to complete briefing of counter appeal is granted.

102,115 Gary Daniel v. Chevrolet Motor Division, General Motors Corporation

Appellee's motion to indefinitely suspend proceeding is denied. Appellee is granted to February 22, 2006 to file his brief.

102,214 Tracy L. Kizer, now Ford v. Marquice M. Kizer

Appellee's answer brief was accepted January 31, 2006

102, 279 Stephanie Turner v. Farm Properties, Inc., d/b/a the Farm Shopping Center, an Oklahoma General Partnership

Appellant is granted to February 15, 2006 to file her brief.

102,356 Ronny Gene Altman, Trustee of the Ronny Gene Altman Revocable Trust, and S.N.S. Oil and Gas Properties, Inc., an Oklahoma Corporation, individually and on behalf of all other similarly situated v. Apache Corporation

Appellant is granted to February 16, 2006 to file its brief.

102,398 Robert Olson v. Continental Resources, Inc., an Oklahoma Corporation; Harold Hamm, an individual and President and Chief Executive Officer of Continental Resources, Inc.; Tom Luttrell, an individual and Vice President of Continental Resources, Inc.

Consideration, if any, of Appellant's request for permission to file a brief under Oklahoma Supreme Court Rule 1.36(g) is deferred.

102,825 Melvin Chilcoat v. Gary L. Tate, et al.

Gary Peterson is permitted to withdraw. The Court notes the address of appellants pro se.

102,932 Hong Thi Vu and Lars Pham, as Parents and next of kin to Ken Vu Pham, Deceased v. Linda J. Truitt, M.D., and Linda J. Truitt, P.C.

Motion to remove from accelerated procedure is denied.

102,947 Jerome J. Sprenger v. Sonja Sue Austin, et al.

Appellee's motion to dismiss is denied.

102,963 Lonnie Thomas v. Diane C. Wheat

Consideration of Motion to strike plaintiff/ appellant's appellate filings and dismiss appeal and appellant's motion for leave to comply with Oklahoma Supreme Court Rules is deferred to reviewing court.

s\ James B. Winchester
VICE CHIEF JUSTICE

CREDITOR BENEFICIARY CONTRACT

EXERPT FROM:

17B C.J.S. CONTRACTS § 620

A creditor beneficiary is a third party to whom a preexisting duty or liability is owed. (Footnote 57). A creditor beneficiary to a contract is one upon whom the promisee intends to confer the benefit of the performance of the contract and thereby discharge an obligation or duty that the promisee owes the beneficiary. (Footnote 58). Thus a person is a creditor beneficiary if no intention to make a gift appears from the terms of the promise, and promisor's performance of the contract discharges some legal duty owed to the beneficiary by the promisee. (Footnote 59). ... . While the creditor beneficiary contract embraces the situation in which the relationship between the promisee and the beneficiary is that of debtor and creditor. (Footnote 61) the obligation of the promisee, which the promisor agrees to perform, need not be for the payment of a money debt only. (Footnote 62).

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57. Ill.-- Hickox v. Bell. 195 Ill. App. 3d 976. 142 Ill. Dec.392. 552 N.E.2d 1133 (5th Dist. 1990).

58. Mo.-- OFW Corp. v. City of Columbia. 893 S.W.2d 876 (Mo. Ct. App. W.D. 1995).

59. U.S. -- City and Suburban Management Corp. v. First Bank of Richmond. 959 F. Supp. 660 (D. Del. 1997).

61. U.S.-- Donovan Const. Co. v. General Elec. Co., 133 F. Supp. 870 (D. Minn. 1955).

62. Cal.-- In re Marriage of Smith & Maescher. 21 Cal App. 4th 100 26 Cal. Rptr. 2d 133 (4th Dist. 1993).

NEW OKLAHOMA LEGISLATION

Exerpts from new Oklahoma legislation. It is my understanding that this new legislative initiative has been voted out of the Oklahoma House Judicial Committee on an 11 to 1 vote. RWO.

1. STATE OF OKLAHOMA
2nd Session of the 50th legislature (2006)

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 2760 By: Perry

COMMITTEE SUBSTITUTE

An Act relating to the Council on Judicial Complaints; amending 20 O.S. 2001, Sections 1651, 1653, 1654, 1658 and 1659, which relate to the Council; increasing membership; providing for initial appointments and qualifications; providing for a quorum; providing for successive appointments and qualifications; providing terms of office; and providing an effective date.

(In these exerpts, the deletions will be stricken through and the additions will be underlined: RWO)

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 20 O.S. 2001, Section 1651, is amended to read as follows:

Section 1651. It is hereby declared to be the public policy of this state:

1. To afford a means for efficiently and impartially investigating complaints by any person concerning the conduct of persons occupying positions subject to the jurisdiction of the Court on the Judiciary;

2. To provide an agency which can determine whether such complaints should:

a. be made the subject of action before the Court on the Judiciary for the purpose of removal, ~~reprimand, or admonition, or~~

b. be made the subject of action before the Court on the Judiciary for the purpose of compulsory retirement.

c. be made the subject of action before a Trial Panel of the Court on the Judiciary for the purpose of imposing discipline less than removal or compulsory retirement, or

d. be dismissed

3. To provide means for procuring necessary information to enable the agency to perform its functions, including the power to issue and enforce subpoenas to testify or to produce tangible evidentiary materials; ~~and~~

4. To provide a means of prosecuting proceedings in which discipline less than removal or compulsory retirement is sought; and

5. To better the administration of justice in this state through the means enumerated in Sections 1651 through 1662 of this title.

SECTION 2. AMENDATORY 20 O.S. 2001, Section 1653, is amended to read as follows:

Section 1653. A. ~~The~~ 1. Until January 1, 2007, the Council on Judicial Complaints shall consist of three (3) members, only two of whom shall be members of the ~~Bar of the State of~~ Oklahoma Bar Association and only two of whom shall constitute a quorum. One member shall be appointed by the President Pro Tempore of the Senate; one member shall be appointed by the Speaker of the House of Representatives; and one member shall be appointed by the President of the Oklahoma Bar Association.

2. a. Beginning January 1, 2007, the Council on Judicial Complaints shall consist of five (5) members, only two of whom shall be members of the Oklahoma Bar Association. One member shall be appointed by the President Pro Tempore of the Senate; one member shall be appointed by the Speaker of the House of Representatives; one member shall be appointed by the Governor; and two members, who shall be members of the Oklahoma Bar Association, shall be appointed by the President of the Oklahoma Bar Association.

After this was written, I made a suggestion for a provision for an annual Minority Report if desired.

RWO

STATE OF OKLAHOMA

2nd Session of the 50th legislature (2006)

COMMITTEE SUBSTITUTE
FOR
HOUSE JOINT
RESOLUTION NO. 1028 By: Perry

COMMITTEE SUBSTITUTE

A Joint Resolution directing the Secretary of State to refer to the people for their approval or rejection proposed amendments to Sections 1, 2, 3, 4, 5 and 6 of Article VII-A of the Constitution of the State of the State of Oklahoma; expanding membership and providing for composition; expanding disciplinary authority of the Court on the Judiciary; providing ballot title; and directing filing.

BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES AND THE SENATE OF THE 1ST SESSION OF THE 50TH OKLAHOMA LEGISLATURE

SECTION 1. The Secretary of State shall refer to the people for their approval or rejection, as and in the manner provided by law, the following proposed amendments to Sections 1, 2, 3, 4, 5 and 6 of Article VII-A of the Constitution of the State of Oklahoma to read as follows:

(In these exerpts, the deletions will be stricken through and the additions will be underlined; RWO)

Section 1. (a) In addition to other methods and causes prescribed by the Constitution and laws, the judges of any court, exercising judicial power under the provisions of Article VII of the Constitution, or under any other provision of the Constitution of Oklahoma, shall be subject to removal from office, ~~or to~~ compulsory retirement from , or lessor discipline for causes herein specified, by proceedings in the Court on the Judiciary.

(b) Cause for removal from office shall be: Gross neglect of duty; corruption in office; habitual drunkenness; commission while in office of any offense involving moral turpitude; gross partiality in office; oppression in office; and other grounds as may be specified hereinafter by the legislature.

(c) Cause for compulsory retirement from office, with or without compensation, shall be mental or physical disability preventing the proper performance of official duty, or incompetence to perform the duties of office.

(d) Cause for lesser discipline, including private or public reprimand or suspension, shall be misconduct, including failure to comply with court rules or violation of the Code of Judicial Conduct, that is not so serious as to warrant removal from office or compulsory retirement.

Section 2. (a) There is created a Court on the Judiciary, hereinafter referred to as the Court, divided into a Trial Division and an Appellate Division. The Court is vested, subject to the provisions of this Article, with sole and exclusive jurisdiction to hear and determine causes arising thereunder.

(b) ~~The~~ Until March 1 of the year following the adoption of this amendment, the Trial Division shall be composed of nine (9) members, eight (8) of whom shall be the district judges senior in service, but under sixty (60) years of age, with no two(2) from the same Supreme Court Judicial District (in case of equal seniority, the eldest in years to serve), and one (1) active member of the Oklahoma Bar Association, chosen by its ~~Executive Council~~ Board of Governors or other body exercising similar powers. Beginning March 1 of the year following the adoption of this amendment, the Trial Division shall be compsed of thirteen (13) members, eight (8) of whom shall be district judges senior in service, but under sixty (60) years of age, with no two (2) from the same Supreme Court Judicial District (in case of equal seniority, the eldest in years to serve), and one (1) active member of the Oklahoma Bar Association, chosen by its Board of Governors or other body exercising similar powers, and four (4) members who are not members of the Oklahoma Bar Association, two of whom shall be appointed by the Governor, one of whom shall be appointed by the the Speaker of the House of Representatives and one of whom shall be appointed by the President Pro Tempore of the Senate.

pg 2.5 of 9

After this was written, I made a suggestion for a provision for an annual Minority Report if desired.

RWO

Supreme Court, U.S.
FILED
MAY 8 2006
OFFICE OF THE CLERK

No. 05-1057

IN THE

Supreme Court of the United States

In re

ROBERT OLSON,

Petitioner,

vs

THE HONORABLE JUDGE
RONALD G. FRANKLIN,

Respondent.

Petition for Writ of Mandamus
Judicial Disqualification
From Oklahoma Supreme Court #101682

PETITION FOR AN EXTRAORDINARY
WRIT OF MANDAMUS

PETITION FOR REHEARING

Petitioner, Pro Se
Robert Olson
9022 E 60th St
Tulsa, Oklahoma
74145
918 252 1987

Opposing Counsel
Glenn A. Devoll
Firm: Gungoll, Jackson,
Collins, Box & Devoll, P.C.
P.O.Box 1549
Enid, Oklahoma 73702
580 234 0436

QUESTIONS

1. Does the Judiciary really respect the Code of Judicial Conduct? Is the use of the prestigious word "Canon" only for show? If the Code of Judicial Conduct is for real, it must be enforced. If it is not enforced, the Code of Judicial Conduct becomes a mere List of Suggestions.

2. For this legal action for judicial disqualification, the Supreme Court of the United States is the court of last resort. Is the Supreme Court of the United States the court of last resort for judicial integrity?

3. Is a judge to be given a free pass to violate the Code of Judicial Conduct and violate felony criminal statutes for the benefit of one party while presiding over a civil lawsuit?

4. How can the Supreme Court of the United states justify not disqualifying a judge who violated the Code of Judicial Conduct and violated Oklahoma Criminal Statutes for the benefit of one party and causing harm to the Petitioner, Robert Olson, approximately $93,503.27 while presiding over a civil lawsuit and an Alcoholic Beverage Laws Enforcement Commission agent was fired for violating policy by using the state issued car for personal business and misappropriating approximately $1192.00? See this Appendix E.

There is a misbehavior versus consequences disconnect here.

(b) ROBERT OLSON,

Plaintiff, Petitioner

vs.

JUDGE RONALD G. FRANKLIN,

District Judge of Blaine County,
Oklahoma,
Respondent.

Oklahoma Supreme Court Case #101682

ROBERT OLSON,

Plaintiff, Petitioner

vs.

CONTINENTAL RESOURCES, INC.,

an Oklahoma Corporation,

HAROLD HAMM,

an Individual and President
and Chief Executive Officer of
Continental Resources, Inc.,

TOM LUTTRELL,

an individual and Vice President of
Continental Resources, Inc.

AND

DAVIS OPERATING COMPANY,

an Oklahoma Corporation,

WILLIAM H. DAVIS,

an individual and President of
Davis Operating Company.

Base Case: Blaine County Oklahoma District Court
Case CJ-2004-121 , refile of CJ-2002-151

List of Attorneys and Interested Entities and Addresses

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Judge Ray Dean Linder
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Alva, Oklahoma 73717

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Tom Luttrell

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TABLE OF CITED AUTHORITIES

United States Court of Appeals, Third Circuit,
Johnson v. Carrol, 369 F.3d 253;
ex parte communication — Rehearing Text 3

United States Court of Appeals, Tenth Circuit,
United States v. Lang, 364 F.3d 1210;
Theft of Court Records — Rehearing Text 4

United States District Court, ND New York,
Connor v. New York State Commission on
Judicial Conduct, 260 F. Supp.2d 517;
ex parte communication — Rehearing Text 4

Phillips Petroleum Co., v. Taylor, et al.,
116 F.2d 994, U.S. Supreme Court,
313 U.S. 565
Protection of Override — Rehearing Text 4

TABLE OF STATUTES

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The Fourteenth Amendment of the United States Constitution.	Rehearing Text 4 Page viii This Appendix H
28 U.S.C.A § 455(a) Judge Should Disqualify if there is ANY doubt about a fair and honest judge	Rehearing Text 4 Page viii This Appendix H

APPENDIX H
CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

U.S.C.S. Const. Amend. 14, § 1 (2005)

Sec. 1. [citizens of the United States]

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

28 U.S.C.A. § 455 (a)

Any justice, judge, or magistrate judge of the United States shall disqualify himself in any proceeding in which his impartiality might reasonably be questioned.

REHEARING REQUEST TEXT

Judges have more power and prestige (As well as Judicial Immunity) than other governmental officials. Therefore judicial misbehavior can cause tremendous harm both to the individual citizen and to the reputation of the judiciary. Each judicial act of injustice creates a decrease in the credibility of the judiciary with an accompanying loss of trust and of respect for the judiciary. Each individual loss of respect for the judiciary is not significant. However, over time the loss of credibility and the loss of trust and respect is cumulative.

In Oklahoma, the fact that the Legislative Initiative was voted out of the Oklahoma House Judiciary Committee to the house floor on an 11-1 vote (See pages 37 - 42 of the appendix of the Supplemental Brief, U.S. No. 05-1057) prompted the Oklahoma Supreme Court to recognize the existence of the problem of judicial misbehavior and propose its own action (This Appendix B, C and D).

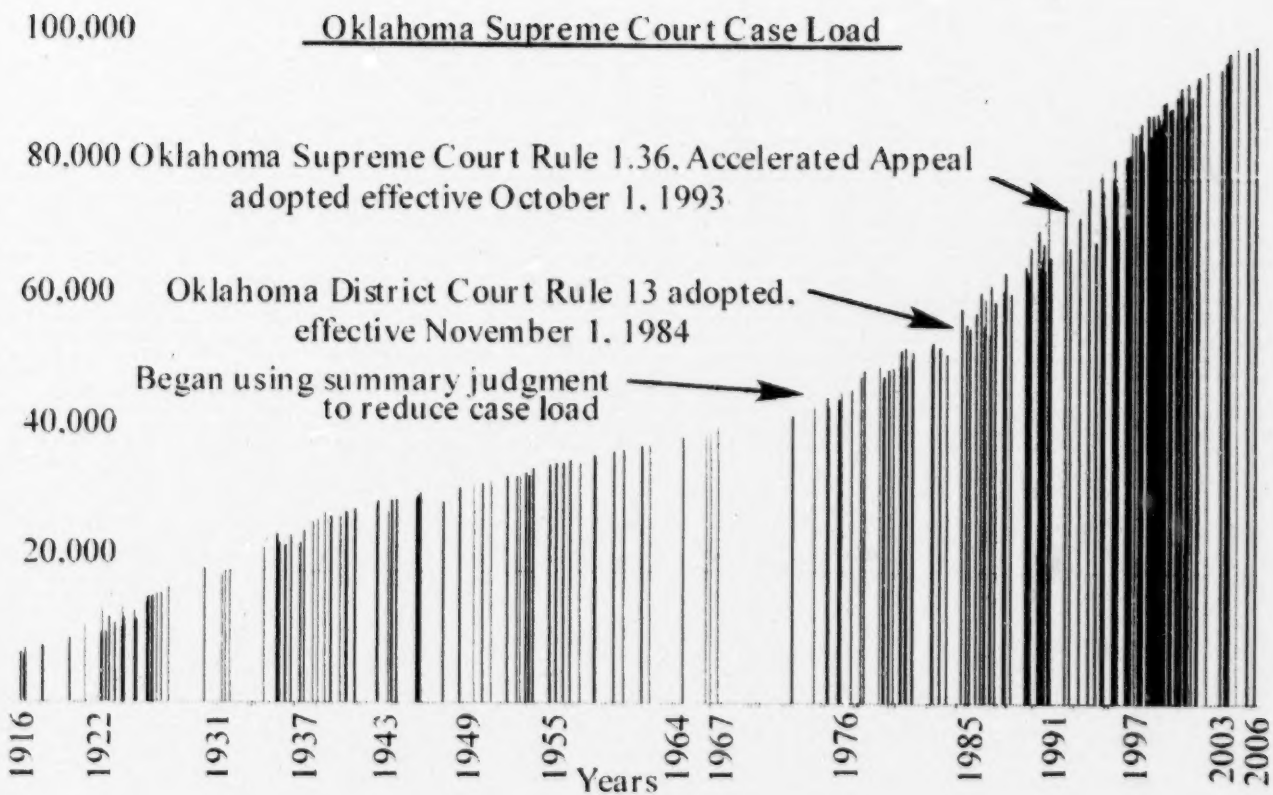
I have been personally financially harmed in the amount of approximately $93,503.27 in outright cash loss and approximately $937,125.00 in property loss, by judicial misconduct. My case provided the catalyst for the Legislative Initiative. However, my case alone would not have found any traction if there were not a longstanding popular distrust of the legal process in Oklahoma.

American citizens have a remarkable capacity for recognizing injustice and are collectively willing to express their condemnation of injustice at the ballot box.

Exhibit 1 indicates a dramatic citizen reaction to the injustice in the Oklahoma court system since 1975.

Rehearing Text 2

Exhibit 1



I have experienced this institutional injustice first hand on several occasions:

Kingfisher County	
SC-90-36, SC-90-37	Oklahoma Appeal # 75481
Kingfisher County	
CJ-93-33	Oklahoma Appeal # 84434
Kingfisher County	
CJ-96-249	Oklahoma Appeal SJ: #9 0518
	Oklahoma Appeal Trial: # 92786
	Oklahoma Appeal Costs: # 95289
Blaine County	
CJ-2002-151	Oklahoma Appeal # 99704
CJ-2004-121	Oklahoma Appeal # 101682

The Blaine County cases with the appeals and elicited evidence exhibit judicial violation of the Code of Judicial Conduct and felony violation of Oklahoma Criminal Statute Title 21 § 461 (Destruction of Court Records) for the benefit of one party in the lawsuit. This Appendix I.

Oklahoma Judge Ray Dean Linder has testified from the bench that that practice is commonplace in Oklahoma. (Petition for Writ of Mandamus, U.S. Appeal No. 05-1057, its appendix: pg 34, Ln 23; pg 35, Ln 24, 24; ps 36, Ln 9-25; pg 48, Ln 24-25 top; and pg 48, Ln 1.)

Exhibit 1 shows that that style of legal practice has existed in Oklahoma for the last 30 years.

The dismissal of Petitioner's Petition for Writ of Mandamus produces a result that is in conflict with:

1. United States Court of Appeals, Third Circuit, Johnson v. Carrol, 369 F.3d 253, ex parte Communication, and

2. United States Court of Appeals, Tenth Circuit, United States v. Lang, 364 F.3d 1210; Theft of Records

3. United States District Dourt, ND New York, Connor v. New York State Commission on Judicial Conduct, 260 F. Supp.2d 517, ex parte communication.

The above referenced dismissal decision also produces a result that is diametrically in conflict with Phillips Petroleum Co. v. Taylor, et al. , 116 F.2d 994, U.S. Supreme Court, 313 U.S. 565. This Appendix G .

CONCLUSION

Failure to hold any member of the judiciary to the published standards of the judiciary creates a climate of distrust.

Private property rights (The Fourteenth Amendment to the United States Constitution, This Appendix H) and the right to a fair, honest and independent judge (28 U.S.C.A. § 455(a)) are fundamental pillars of the American Way of Life.

These concepts must be upheld in every instance: big or small.

Sincerely submitted,

Robert Olson

Dr. Robert Olson
9022 E 60th Street
Tulsa, Oklahoma 74145
918-252-1987

APPENDIX

Appendix A

Supreme Court of the United States
Office of the Clerk
Washington, DC 20543-0001

April 17, 2006

William K. Suter
Clerk of the Court
(202) 479 3011

Mr. Robert Olson
9022 E 60th Street
Tulas, OK 74145

Re: In Re Robert Olson
No. 05-1057

Dear Mr. Olson:

The Court today entered the following order in the above-entitled case:

The petition for a writ of Mandamus is denied.

Sincerely,

s\ William K. Suter
William K. Suter, Clerk

APPENDIX B

House of Representatives

STATE OF OKLAHOMA

April 7, 2006

FRED PERRY
STATE REPRESENTATIVE, DISTRICT 69

CAPITOL ADDRESS:
405 STATE CAPITOL BUILDING
2300 N. LINCOLN BLVD.
OKLAHOMA CITY, OK 73105-4885
(405) 557 7331

COMMITTEES

CHAIRMAN:
TRANSPORTATION

MEMBER:
CORRECTIONS & CRIMINAL JUSTICE
HIGHER EDUCATION
RULES

Robert Olson
9022 E. 60th
Tulas, OK 74136 (Actually: 74145)

Dear Bob:

Please see attached. Our efforts have paid off in getting the Supreme Court to address the issue of "intermediate discipline" for judges.

Now let's hope and pray they write good rules and procedures to address the problem.

s\ Fred

Fred

APPENDIX C

SUPREME COURT OF OKLAHOMA

STATE OF OKLAHOMA
ROOM 245 - STATE CAPITOL
OKLAHOMA CITY, OKLAHOMA 73105

April 6, 2006

JOSEPH M. WATT
Chief Justice

(405) 521-3848
FAX (405) 521-6982
E-mail Address: joseph.watt@oscn.net

The Honorable Fred Perry
House of Representatives
State Capitol Bldg., Rm. 405
Oklahoma City, OK 73105

Dear Representative Perry:

On behalf of the entire Judiciary, I want to commend you for your efforts with regard to your legislation concerning intermediate discipline of judges and for your cooperation in working with the Bench and Bar Committee of the Oklahoma Bar Association, the Council on Judicial Complaints, and others who have an interest in this area.

I know that this has been an important issue to you

since we first met in my chambers just prior to last year's legislative session.

I am indeed pleased that our Court has adopted the Supreme Court Administrative Directive (a copy of which is enclosed) which will deal directly with the issue of intermediate discipline of judges and I am confident that once rules have been promulgated that the issues and concerns of all involved in this process will be addressed.

Lastly, let me extend my personal thanks and gratitude for your years of public service as a member of the House of Representatives and please know that we in the Judiciary appreciate all that you have done for us in the past. Your talents, expertise, and dedication will be missed.

Please do not hesitate to contact me if I may be of any assistance to you.

Sincerely,

s\ Joseph M. Watt

Joseph M. Watt
Chief Justice

ORIGINAL

APPENDIX D

IN THE SUPREME COURT OF THE
STATE OF OKLAHOMA

SUPREME COURT	)	FILED
ADMINISTRATIVE	)	SUPREME COURT
DIRECTIVE	)	STATE OF OKLAHOMA
		MAR 30 2006
S.C.A.D. No. 2006 - 36		MICHAEL S. RICHIE
		CLERK

FOR PUBLICATION IN OBJ
ONE TIME ONLY

ORDER

Pgr 1 The general, exclusive, operational and administrative authority over all of the courts of this state, except with reference to the Senate sitting as a Court of Impeachment and the Court on the Judiciary, is vested in the Supreme Court and shall be exercised by the Chief Justice in accordance with its rules pursuant to Article VII, Section 6 of the Oklahoma Constitution.

Pgr 2 Article VII-A of the Constitution of the State of Oklahoma provides that the Court on the Judiciary, exclusively, may remove or compel the retirement of a judge of any court, exercising judicial powers under Article VII, or any other provision of the Constitution of Oklahoma.

Pgr 3 Pursuant to Article VII, Section 6 of the

Constitution of Oklahoma, the original and exclusive jurisdiction of this court extends to general operational and administrative control over all inferior courts and all agencies, commissions and boards created by law.

Pgr 4 While historically the Chief Justice has administered forms of disipline short of removal, the Supreme Court will promulgate written rules to investigate and administer judicial discipline for misconduct that does not warrant removal from office or compulsory retirement on or before December 31, 2006.

pgr 5 These measures are being taken today in the best interest of the public, to ensure that uniform rules are promulgated by this Court to protect and preserve the integrity, detachment and neutrality of judicial decision-making by judges who are uninfluenced by other forces in the government.

Pgr 6 ADOPTED BY THE SUPREME COURT IN CONFERENCE THIS 30TH DAY OF MARCH, 2006.

S\ JOSEPH M. WATT
JOSEPH M. WATT
CHIEF JUSTICE

ALL JUSTICES CONCUR

Appendix E

TULSA WORLD

Wednesday, April 26, 2006

ABLE: SUPERVISOR AXED

State agency fires Easley

The Alcoholic Beverage Laws Enforcement Commission agent had been under scrutiny.

by Ziva Branstetter
World Projects Editor

An ABLE supervisor who allegedly falsified time sheets was fired by the agencyTuesday.

The Alcoholic Beverage Laws Enforcement Commission issued a press release Tuesday saying it had fired Michael Easley, special agent in charge of the northern district, effective Tuesda

Director Keith Burt said Easley has appeal rights and declined additional comment.

Burt previously asked Attorney General Drew Edmondson's office to investigate whether Easley violated any laws. That investigation is continuing, ABLE's release said.

Easley is a 19-year veteran of the agency. He is the brother of Kevin Easley, former state senator and now chief executive officer of the Grand River Dam Authority. His Mother, Mary Easley, is a state senator from Tulsa.

See Easley A-3

EASLEY: Easley's attorney says the firing occurred "for no valid reason."

The Oklahoma Highway Patrol stopped Mike Easley Oct. 19 on the Muskogee Turnpike after receiving a complaint about a truck using its emergency lights. Easley reportedly told troopers he was late to teach a class at Bacone College in Muskogee.

Since August 2005, Easley has taught criminal justice classes at Bacone that met for two hours on Tuesday and Wednesday nights. On at least 30 days, time sheets submitted by Easley claimed he worked eight hours on days he was teaching the classes, records show.

Easley also taught short criminal justice courses at Northeastern State University in Broken Arrow. Records for Jan. 4 and 5 show he claimed he worked 16 hours for the state. On both of those days, Easley taught a course on Oklahoma's concealed-carry law from 1 to 9 pm., according to university officials.

State law makes it a felony for any person to knowingly make a false claim for state funds. Violation of the law carries a fine of up to $10,000 and up to two years in prison.

Easley also used his state-issued PikePass on the Muskogee Turnpike at least 24 times last year on evenings when the Bacone class met.

ABLE forbids employees from using their state

cars for personal business and says that employees who violate the policy shall be discharged. The policy also forbids the use of emergency equipment unless agents are assisting motorists, responding to accidents or coming to assist officers.

Easley's attorney, Carl Hughes, released a statement Tuesday saying the firing occurred "for no valid reasons." He said the agency told him Easley "was lax in his paperwork."

"During three days of pre-termination hearings for Easley, Burt listed a handful of minor violations of ABLE policy, but noted none of the violations was an offense that would lead to termination," the statement says.

Hughes' statement also says Easley met or exceeded standards during his last employee review in December.

"That leads us to believe he was fired because of some negative stories in the paper and TV. If true, that is a violation on the part of the ABLE Commission.

Before his employment with ABLE, Easley was dismissed from a job at the Oklahoma Tax Commission. The agency's records do not show the reason for that dismissal. Burt said Easley is a member of the Oklahoma Law Enforcement Retirement System and that agency would determine the status of Easley's retirement pay.

APPENDIX F
CODE OF JUDICIAL CONDUCT

Effective November 1, 1997
Including Amendments received through
November 1, 2003

Research Note

Annotations to the Code of Judicial Conduce are available in Oklahoma Statutes Annotated, Title 5, Chapter 1, Appendix 4, and in the OK-RULESdatabase on Westlaw®. Westlaw may also be used to search for specific terms in court rules or to update court rules. See the OK-RULES and OK-ORDERS Scope Screens for further information.

Amendmentsto these rules are published, as received, in the P.3d and Oklahoma Decisions advance sheets.

Canon

1. A Judge should Uphold the Integrity and Independence of the Judiciary.
2. A Judge Should Avoid Impropriety and the Appearance Of Impropriety in All of the Judge's Activities.
3. A Judge Should Perform the Duties of Judicial Office Impartially and Diligently.

CANON 1. A JUDGE SHOULD UPHOLD THE INTEGRITY AND INDEPENDENCE OF THE JUDICIARY

An independent and honorable judiciary is indispensable to justice in our society. A judge should participate in establishing, maintaining and enforcing high standards of conduct, and should personally observe those standards so that the integrity and independence of the judiciary will be preserved. The provisions of this Code are to be construed and applied to further that objective.

[Effective November 1, 1997.]

CANON 2. A JUDGE SHOULD IMPROPRIETY AND THE APPEARANCE OF IMPROPRIETY IN ALL OF THE JUDGE'S ACTIVITIES

A. A judge should respect and comply with the law and act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.

B. A judge should not allow family social, political or other relationships to influence the judge's judicial conduct or judgment. A judge should not lend the prestige of judicial office to advance the private interests of the judge or others; nor should a judge convey or permit others to convey the impression that they are in a special position to influence the judge. A judge should not testify voluntarily as a character witness.

[Effective November 1, 1977.]

CANON 3. A JUDGE SHOULD PERFORM THE DUTIES OF JUDICIAL OFFICE IMPARTIALLY AND DILIGENTLY

A. Judicial Duties in General . The judicial duties of a judge take precedence over all the judge's other activities. The judge's judicial duties include all the duties of the judge's office prescribed by law. In performance of those duties, the following standards apply.

B. Adjudicative Responsibilities.

(1) A judge should be faithful to the law and maintain professional competence in it. A judge should not be swayed by partisan interests, public clamor or fear of criticism.

(2) A judge should require order and decorum in proceedings before the judge.

(3) A judge should be patient, dignified and courteous to litigants, jurors, witnesses, lawyers and others with whom he the judge deals in official capacity, and should require similar conduct of lawyers, and of his staff, court

officials and others subject to the judge's direction and control.

(4) A judge should perform judicial duties without bias or prejudice. A judge should not, in the performance of judicial duties, by words or conduct manifest bias or prejudice, including but not limited to bias or prejudice based upon race, sex, religion, national origin, disability, age, sexual orientation or socioeconomic status, and should not permit staff, court officials and others subject to the judge's direction and control to do so.

(5) A judge should require lawyers in proceedings before the judge to refrain from manifesting, by words or conduct, bias or prejudice based upon race, sex, religion, national origin, disability, age , sexual orientation, or socioeconomic status, against parties, witnesses , counsel or others. This Section 3B(5) does not preclude legitimate advocacy when race, sex, religion, national origin, disability, age , sexual orientation or socioeconomic status, or other similar factors, are issues in the proceeding.

(6) A judge should accord to every person who has a legal interest in a proceeding, or that person's lawyer, the right to be heard according to law. A judge should not initiate, nor consider ex parte communications, or consider other communications made to the judge outside the presence of the parties concerning a pending or impending proceeding except that:

> (a) Where circumstances require, ex parte communications for scheduling, administrative purposes or emergencies that do not deal with substantive matters or issues on the merits are authorized; provided that the judge reasonable believes that no party will gain a procedural or tactical advantage as a result of the ex parte communication.

(b) A judge may obtain the advice of a disinterested expert on the law applicable to a proceeding before the judge if the judge gives notice to the parties of the person consulted and the substance of the advice, with a record being made, and affords the parties reasonable opportunity to respond.

C. Disciplinary Responsibilities. A judge should report to the appropriate disciplinary authority any unprofessional conduct of a judge or lawyer of which the judge may become aware.

E. Disqualification.

(1) A judge should disqualify himself or herself in a proceeding in which the judge's impartiality might reasonable be questioned, including but not limited to instances where:

(a) the judge has a personal bias or prejudice concerning a party or a party's lawyer, or personal knowledge of disputed evidentiary facts concerning the proceeding;

(b) the judge served as a lawyer in the matter in controversy, or a lawyer with whom the judge previously practiced law served during such association as a lawyer concerning the matter, or the judge has been a material witness concerning it;

(c) the judge knows that he or she, individually or as a fiduciary, or the judge's spouse, parent or child wherever residing, or any other member of the judge's family residing in the judge's household, has an economic interest in the subject matter in controversy or has an interest more than de minimis that could be substantially affected by the proceeding;

(d) the judge or the judge's spouse, or a person within the third degree of relationship to either of them, or the spouse of such a person:

(i) is a party to the proceeding, or an officer, director or trustee of a party;

(ii) is acting as a lawyer in the proceeding;

(iii) is known by the judge to have an interest more than de minimis that could be substantially affected by the proceeding.

(iv) is to the judge's knowledge likely to be a material witness in the proceeding.

(2) A judge shall keep informed about the judge's personal and fiduciary economic interests, and make a reasonable effort to keep informed about the personal economic interests of the judge's spouse and minor children residing in the judge's household.

APPENDIX G

PHILLIPS PETROLEUM CO.

v.

TAYLOR et al.

Circuit Court of Appeals, Fifth Circuit # 9421

Jan. 14, 1941.

Cite as: 116 F.2d 994, U.S. Supreme Court, 313 U.S. 565

Exerpt page 995 and 996

Page 995

[1][2][3][4] It is well settled that, under the lease in the case, the assignee impliedly covenanted to protect the lessor from drainage. [FN3] To determine whether or not the assignor also has the protection of an implied covenant, the same rules govern as are applied to covenants in contracts between the lessor and lessee; [FN4] and the obligations between the assignor and assignee are what the contract of assignment makes them, in the light of the provisions of the lease assigned. [FN5] These rules are to be applied to the facts of this case and to be considered in the light of the law of Texas, that an overriding royalty, created by assignment, is an interest in real estate regarded as a covenant running with the land as between the assignor and assignee, and enforceable by the assignor against the assignee. Emerson v. Little Six Oil Co., 5 Cir., 3 F.2d 265; Colquitt v. Eureka Producing Co., Tex. Comm.App., 63 S.W.2d 1018, 67 S.W.2d 224; Holiday v. Erwin, Tex. Civ. App., 85 S.W.2d 355

Page 995 and Page 996

[6][7][8][9] The law requires an assignee who stands in the

shoes of his lessee-assignor, to do that which an ordinary prudent operator would do under the circumstances, having due regard for the interests of all parties. [FN7] When a mineral lease is purchased, the lessee or his assignee must do one or more of three things: He must drill, pay rent, or forfeit *996 the lease. If he drills and finds oil, he neither rents nor forfeits, but he pays the royalty, and he must develop the property diligently; if he does not drill, but retains the lease, he must pay rental; if he neither drills nor pays rent, he must forfeit his lease. For the protection of the lessor, the law imposes upon the assignee the duty, when he drills, to exercise reasonable prudence solely in order to prevent loss to the lessor of that which is rightfully his, be the loss by drainage or refusal to capture or surrender the lease. This duty, where not expressed, is imposed by implied covenant. Applying the same principle to the assignor and assignee in this case, it seems entirely reasonable to impose a similiar duty.

Page 996

The conclusion reached by us can prejudice no one, since the implied covenant in favor of the lessor already has placed the onus of drilling or compensating for the failure to do so, and this obligation is not increased by our holding. Under any other holding, the assignor, his consideration consisting of royalty alone, might be seriously prejudiced by deprivation of his only enforcement privilege.

The petition for rehearing is denied.

APPENDIX H

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

U.S.C.S. Const. Amend. 14, § 1 (2005)

Sec. 1. [citizens of the United States]

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

28 U.S.C.A. § 455 (a)

Any justice, judge, or magistrate judge of the United States shall disqualify himself in any proceeding in which his impartiality might reasonably be questioned.

APPENDIX I

OKLAHOMA STATUTES INVOLVED

OKLAHOMA STATUTES ANNOTATED

O.S. Title 12. § 100. Limitation of new action after reversal or failure otherwise than on merits

If any action is commenced within due time, and a judgment thereon for the plaintiff is reversed, or if the plaintiff fail in such action otherwise than upon the merits, the plaintiff, or, if he should die, and the cause of action survive, his representatives may commence a new action within one (1) year after the reversal or failure although the time limit for commencing the action shall have expired before the new action is filed.

R.L.1910, § 4662; Laws 1975, c. 44 § 1, emerg. eff. March 31, 1975.

O.S. Title 21 § 461. Larceny or destruction of records by clerk or officer

Any clerk, register or other officer having the custody of any record, maps or book, or of any paper or proceeding of any court of justice, filed or deposited in any public office, who is guilty of stealing, willfully destroying, mutilating, defacing, altering or falsifying or unlawfully removing or secreting such record, map, book, paper or proceeding, or who permits any other person so to do, shall be guilty of a felony punishable by imprisonment in the State Penitentiary not exceeding five (5) years, and in addition thereto, such person shall forfeit office.

R.I.1910 § 2207; Laws 1997, c. 133, § 201, eff. July 1, 1999; Laws 1999, 1st Ex.Sess., c. 5, § 112, eff. July 1, 1999

CERTIFICATE OF GOOD FAITH

I, Petitioner Dr. Robert Olson, do hereby certify that this Petition for Rehearing is restricted to the grounds specified in Paragraph 2 of Rule 44. Rehearing.

The grounds are of a substantial and controlling effect and other substantial grounds not previously presented.

This Petition for Rehearing is presented in good faith and not for the purpose of delay.

Sincerely,

Robert Olson

Dr. Robert Olson
9022 E 60th Street
Tulsa, Oklahoma 74145
(918) 252 1987